

**To:** Wright, Peter[wright.peter@epa.gov]  
**Cc:** Breen, Barry[Breen.Barry@epa.gov]; Salyer, Kathleen[Salyer.Kathleen@epa.gov]; Hoskinson, Carolyn[Hoskinson.Carolyn@epa.gov]; Cheatham, Reggie[cheatham.reggie@epa.gov]; Woolford, James[Woolford.James@epa.gov]; Cook, Steven[cook.steven@epa.gov]  
**From:** Gervais, Gregory[/O=EXCHANGELABS/OU=EXCHANGE ADMINISTRATIVE GROUP (FYDIBOHF23SPDLT)/CN=RECIPIENTS/CN=D8CA2F7DA7C9493988E713608C8FEED7-GERVAIS, GREGORY]  
**Sent:** Mon 3/23/2020 3:47:57 PM (UTC)  
**Subject:** Re: Draft OECA Enforcement Message

Thanks Peter!

**Ex. 5 Deliberative Process (DP)**

# Ex. 5 Deliberative Process (DP)

Greg Gervais  
Acting Director  
EPA OLEM Federal Facilities  
Restoration and Reuse Office  
202-564-4409  
gervais.gregory@epa.gov  
<https://www.epa.gov/fedfac>

On Mar 22, 2020, at 3:19 PM, Wright, Peter <wright.peter@epa.gov> wrote:

Deliberative / Close Hold

All

Please find a draft from OECA on enforcement guidance that would once finalize become public. The target is to have comments to Susan Bodine by noon tomorrow. A draft has been circulated to the AAs as well as Region 8 as the lead OECA region.

Thank you for the quick review.

Peter  
<COVID19 message 03 22 20.docx>

**To:** Hilosky, Nick[Hilosky.Nick@epa.gov]  
**Cc:** Brooks, Becky[Brooks.Becky@epa.gov]; Hall, Tayoka[Hall.Tayoka@epa.gov]; Hoskinson, Carolyn[Hoskinson.Carolyn@epa.gov]; Cook, Steven[cook.steven@epa.gov]; Breen, Barry[Breen.Barry@epa.gov]  
**From:** Wright, Peter[O=EXCHANGELABS/OU=EXCHANGE ADMINISTRATIVE GROUP (FYDIBOHF23SPDLT)/CN=RECIPIENTS/CN=11616A3DB06F4ECEB13EA26C7E6DC1F0-WRIGHT, PET]  
**Sent:** Fri 3/27/2020 6:50:37 PM (UTC)  
**Subject:** RE: FOR REVIEW: Updated Draft Memo From Carolyn to Regional DDs - for IO and OMB Review

Nick

Ex. 5 Deliberative Process (DP)

Peter

**From:** Hilosky, Nick <Hilosky.Nick@epa.gov>  
**Sent:** Friday, March 27, 2020 2:49 PM  
**To:** Wright, Peter <wright.peter@epa.gov>; Cook, Steven <cook.steven@epa.gov>; Breen, Barry <Breen.Barry@epa.gov>  
**Cc:** Brooks, Becky <Brooks.Becky@epa.gov>; Hall, Tayoka <Hall.Tayoka@epa.gov>; Hoskinson, Carolyn <Hoskinson.Carolyn@epa.gov>  
**Subject:** RE: FOR REVIEW: Updated Draft Memo From Carolyn to Regional DDs - for IO and OMB Review

Ok Ex. 5 Deliberative Process (DP)  
Nick

**From:** Wright, Peter <wright.peter@epa.gov>  
**Sent:** Friday, March 27, 2020 2:48 PM  
**To:** Hilosky, Nick <Hilosky.Nick@epa.gov>; Cook, Steven <cook.steven@epa.gov>; Breen, Barry <Breen.Barry@epa.gov>  
**Cc:** Brooks, Becky <Brooks.Becky@epa.gov>; Hall, Tayoka <Hall.Tayoka@epa.gov>; Hoskinson, Carolyn <Hoskinson.Carolyn@epa.gov>  
**Subject:** RE: FOR REVIEW: Updated Draft Memo From Carolyn to Regional DDs - for IO and OMB Review

All

Ex. 5 Deliberative Process (DP)

Please make sure that Susan Bodine and other appropriate contacts at OECA get a copy.

Peter  
**From:** Hilosky, Nick <Hilosky.Nick@epa.gov>  
**Sent:** Friday, March 27, 2020 2:37 PM  
**To:** Wright, Peter <wright.peter@epa.gov>; Cook, Steven <cook.steven@epa.gov>; Breen, Barry <Breen.Barry@epa.gov>  
**Cc:** Brooks, Becky <Brooks.Becky@epa.gov>; Hall, Tayoka <Hall.Tayoka@epa.gov>  
**Subject:** FOR REVIEW: Updated Draft Memo From Carolyn to Regional DDs - for IO and OMB Review  
**Importance:** High

Peter – attached is the revised version from OUST Ex. 5 Deliberative Process (DP)  
Nick

**From:** Wright, Peter <wright.peter@epa.gov>  
**Sent:** Wednesday, March 25, 2020 5:40 PM  
**To:** Hilosky, Nick <Hilosky.Nick@epa.gov>; Cook, Steven <cook.steven@epa.gov>; Breen, Barry <Breen.Barry@epa.gov>  
**Cc:** Brooks, Becky <Brooks.Becky@epa.gov>; Hall, Tayoka <Hall.Tayoka@epa.gov>  
**Subject:** RE: FOR REVIEW: Draft Memo From Carolyn to Regional DDs - for IO and OMB Review

All

# Ex. 5 Deliberative Process (DP)

We should be able to make the revisions in tomorrow.

Peter

---

**From:** Hilosky, Nick <[Hilosky.Nick@epa.gov](mailto:Hilosky.Nick@epa.gov)>

**Sent:** Wednesday, March 25, 2020 5:27 PM

**To:** Wright, Peter <[wright.peter@epa.gov](mailto:wright.peter@epa.gov)>; Cook, Steven <[cook.steven@epa.gov](mailto:cook.steven@epa.gov)>; Breen, Barry <[Breen.Barry@epa.gov](mailto:Breen.Barry@epa.gov)>

**Cc:** Brooks, Becky <[Brooks.Becky@epa.gov](mailto:Brooks.Becky@epa.gov)>; Hall, Tayoka <[Hall.Tayoka@epa.gov](mailto:Hall.Tayoka@epa.gov)>

**Subject:** FOR REVIEW: Draft Memo From Carolyn to Regional DDs - for IO and OMB Review

**Importance:** High

Hi All,

Here is the draft email from Carolyn Ex. 5 Deliberative Process (DP) Including Mark's message below for more context.

Nick

Nicholas J. Hilosky

Special Assistant

Office of Land and Emergency Management

US Environmental Protection Agency

1200 Pennsylvania Avenue N.W.

Washington, DC 20460

ph: 202-566-1942; fax: 202-566-0207

Ex. 6 Personal Privacy (PP)

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**From:** Barolo, Mark <[Barolo.Mark@epa.gov](mailto:Barolo.Mark@epa.gov)>

**Sent:** Wednesday, March 25, 2020 4:20 PM

**To:** Hilosky, Nick <[Hilosky.Nick@epa.gov](mailto:Hilosky.Nick@epa.gov)>

**Cc:** Hoskinson, Carolyn <[Hoskinson.Carolyn@epa.gov](mailto:Hoskinson.Carolyn@epa.gov)>

**Subject:** Draft Memo From Carolyn to Regional DDs - for IO and OMB Review

Hey Nick,

Hope you are doing OK. Ex. 5 Deliberative Process (DP)

# Ex. 5 Deliberative Process (DP)

Let me know if you need anything more from us. Thanks again.

Mark

**To:** Breen, Barry[Breen.Barry@epa.gov]; Cook, Steven[cook.steven@epa.gov]; Hoverman, Taylor (hoverman.taylor@epa.gov)[hoverman.taylor@epa.gov]  
**From:** Wright, Peter[/O=EXCHANGELABS/OU=EXCHANGE ADMINISTRATIVE GROUP (FYDIBOHF23SPDLT)/CN=RECIPIENTS/CN=11616A3DB06F4ECEB13EA26C7E6DC1F0-WRIGHT, PET]  
**Sent:** Sun 3/22/2020 9:25:18 PM (UTC)  
**Subject:** Cleanup Programs and COVID -19  
Continuation of Site Cleanup Work Guidance March 22.docx

Deliberative

All:

# Ex. 5 Deliberative Process (DP)

Thank you,

Peter

**To:** Breen, Barry[Breen.Barry@epa.gov]; Salyer, Kathleen[Salyer.Kathleen@epa.gov]; Hoskinson, Carolyn[Hoskinson.Carolyn@epa.gov]; Cheatham, Reggie[cheatham.reggie@epa.gov]; Woolford, James[Woolford.James@epa.gov]; Gervais, Gregory[Gervais.Gregory@epa.gov]  
**Cc:** Cook, Steven[cook.steven@epa.gov]  
**From:** Wright, Peter[/O=EXCHANGELABS/OU=EXCHANGE ADMINISTRATIVE GROUP (FYDIBOHF23SPDLT)/CN=RECIPIENTS/CN=11616A3DB06F4ECEB13EA26C7E6DC1F0-WRIGHT, PET]  
**Sent:** Sun 3/22/2020 7:19:16 PM (UTC)  
**Subject:** Draft OECA Enforcement Message  
[COVID19 message 03 22 20.docx](#)

Deliberative / Close Hold

All

Please find a draft from OECA on enforcement guidance that would once finalize become public. The target is to have comments to Susan Bodine by noon tomorrow. A draft has been circulated to the AAs as well as Region 8 as the lead OECA region.

Thank you for the quick review.

Peter

**To:** Cook, Steven[cook.steven@epa.gov]; Hoverman, Taylor[hoverman.taylor@epa.gov]  
**From:** Wright, Peter[/O=EXCHANGELABS/OU=EXCHANGE ADMINISTRATIVE GROUP (FYDIBOHF23SPDLT)/CN=RECIPIENTS/CN=11616A3DB06F4ECEB13EA26C7E6DC1F0-WRIGHT, PET]  
**Sent:** Sun 3/22/2020 4:47:11 PM (UTC)  
**Subject:** FW: DRAFT COVID-19 message DELIBERATIVE ENFORCEMENT CONFIDENTIAL  
Guidance on the Essential Critical Infrastructure Workforce CISA.pdf  
EPA Letter 3.20.20.pdf  
COVID19 message 03 22 20 .docx

Steven and Taylor

I have slightly marked up Susan’s original draft. Please review and provide any comments that you have.

Thank you,

Peter

---

**From:** Bodine, Susan <bodine.susan@epa.gov>  
**Sent:** Sunday, March 22, 2020 11:31 AM  
**To:** Benevento, Douglas <benevento.douglas@epa.gov>; Dunn, Alexandra <dunn.alexandra@epa.gov>; Idsal, Anne <idsal.anne@epa.gov>; Leopold, Matt (OGC) <Leopold.Matt@epa.gov>; McIntosh, Chad <mcintosh.chad@epa.gov>; Ross, David P <ross.davidp@epa.gov>; Wright, Peter <wright.peter@epa.gov>; Gunasekara, Mandy <gunasekara.Mandy@epa.gov>; Sopkin, Gregory <sopkin.gregory@epa.gov>; Dunlap, David <dunlap.david@epa.gov>; Bolen, Brittany <bolen.brittany@epa.gov>  
**Cc:** Irving, John <Irving.John@epa.gov>; Doyle, Brett <doyle.brett@epa.gov>; Brazauskas, Joseph <brazauskas.joseph@epa.gov>; Garvey, Megan <garvey.megan@epa.gov>; Sethuraman, Jag <Sethuraman.Jag@epa.gov>; Molina, Michael <molina.michael@epa.gov>  
**Subject:** DRAFT COVID-19 message DELIBERATIVE ENFORCEMENT CONFIDENTIAL  
**Importance:** High

AAs et al,



Thanks for your input.

Susan

**To:** Bodine, Susan[bodine.susan@epa.gov]; Michael Gerrard[MGerra@law.columbia.edu]; Dunn, Alexandra[dunn.alexandra@epa.gov]  
**Cc:** Rob Verchick[verchick@loyno.edu]; A.J. Singletary[asingletary@vnf.com]; Stillman, Sarah[Stillman.Sarah@epa.gov]; Shiffman, Cari[Shiffman.Cari@epa.gov]; Sundell, Valentia[Valentia.Sundell@americanbar.org]  
**From:** Gwen Keyes Fleming[gfleming@vnf.com]  
**Sent:** Wed 4/15/2020 3:44:58 PM (UTC)  
**Subject:** RE: Outline for SEER webinar -- April 17 -- AA Bodine to Replace AA Dunn

Not to suggest that I could in any way replace Alex, but I have a client that has been tracking the disinfectant developments fairly closely so I can add some information in that space and leave most of the enforcement stuff for Susan if that works for the group.

Gwen

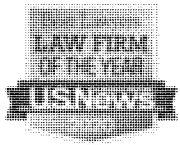
**Gwendolyn Keyes Fleming | Partner**



1050 Thomas Jefferson Street, NW  
Washington, DC 20007

O: (202) 298-1928 | Ex. 6 Personal Privacy (PP)  
[gfleming@vnf.com](mailto:gfleming@vnf.com) | [vnf.com](http://vnf.com)

*Admitted to practice in Georgia and the District of Columbia*



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**From:** Bodine, Susan [mailto:bodine.susan@epa.gov]  
**Sent:** Wednesday, April 15, 2020 10:57 AM  
**To:** Michael Gerrard; Dunn, Alexandra  
**Cc:** Rob Verchick; Gwen Keyes Fleming; A.J. Singletary; Stillman, Sarah; Shiffman, Cari; Sundell, Valentia  
**Subject:** RE: Outline for SEER webinar -- April 17 -- AA Bodine to Replace AA Dunn

Caution: External Email.

I cannot speak to #4. I can talk about enforcement of disinfectant false claims but not about the work Alex is doing to help with the registration process.

**From:** Michael Gerrard <MGerra@law.columbia.edu>  
**Sent:** Wednesday, April 15, 2020 10:26 AM  
**To:** Dunn, Alexandra <dunn.alexandra@epa.gov>  
**Cc:** Rob Verchick <verchick@loyno.edu>; Gwen Keyes Fleming <gfleming@vnf.com>; A.J. Singletary <asingletary@vnf.com>; Stillman, Sarah <Stillman.Sarah@epa.gov>; Bodine, Susan <bodine.susan@epa.gov>; Shiffman, Cari <Shiffman.Cari@epa.gov>; Sundell, Valentia <Valentia.Sundell@americanbar.org>  
**Subject:** Re: Outline for SEER webinar -- April 17 -- AA Bodine to Replace AA Dunn

Here is a revised proposed outline for Friday's webinar. The only changes I have made from the version I sent out on April 11 are to substitute Susan for Alex, and to add an item for the Peter Wright/Susan Bodine memo, "Interim

Guidance on Site Field Work Decisions Due to Impacts of COVID-19." Please let me know if you would like to suggest additional changes.

As of yesterday about 350 people had registered for the program, and I'm sure that number will go up.

The format, as you all know, is that I will raise topics or questions, and the indicated person will respond. I'll then invite the other panelists to add anything they wish on that topic before moving on to the next.

A question for Valentia at ABA SEER -- how will we handle audience questions? Should we ask listeners to e-mail questions to me, or should we use a chat function on the webinar platform, so that I can select and read out questions?

I have also attached a sheet giving links to materials that listeners may find useful. If any of you would like me to add additional materials to the list, please let me know. Valentia -- I assume that you'll send the final version of this to everyone who has registered, together with the link to join the webinar? And are we using a webinar platform that is protected from that new phenomenon we have all been hearing about, Zoom bombing? Thanks.

1. EPA enforcement discretion -- SB, GF, RV
2. State enforcement discretion statements -- GF, RV
3. EPA interim guidance on site field work decisions -- SB
4. FIFRA/TSCA issues: Approval of disinfectants, pesticides -- SB
5. Medical waste issues -- GF
6. What environmentally-related activities are considered essential services? -- GF
7. Health and safety of workers performing essential services -- RV
8. Effect on monitoring and reporting requirements -- GF
9. Effect on consent degree obligations -- GF
10. Effect on environmental due diligence for transactions -- MG, GF
11. Emergency powers of President and governors -- RV
12. Effect of disaster declarations under Stafford Act -- RV
13. Exemptions from NEPA and state NEPAs -- MG
14. Disproportionate impact of COVID-19 crisis on EJ communities -- RV
15. Impact of air pollution on COVID-19 severity in EJ communities -- RV
16. Effect of emergency exemptions on EJ communities -- experience from past disasters -- RV
17. Potential for industry abuse of emergency exemptions, enforcement discretion -- GF

On Mon, Apr 13, 2020 at 10:38 AM Dunn, Alexandra <[dunn.alexandra@epa.gov](mailto:dunn.alexandra@epa.gov)> wrote:

All,

After looking at the topics, and talking with my colleagues, AA Susan Bodine will participate in my stead on this call. I'm copying her here as well as her Chief of Staff. Susan is the right person to address more of the topics than me, but particularly the first one. Susan and her Chief of Staff are copied here. I know the call will be great and wish you success!



Alexandra Dapolito Dunn, Esq.  
Assistant Administrator  
Office of Chemical Safety and Pollution Prevention  
US Environmental Protection Agency  
Washington, DC

**From:** Michael Gerrard <MGerrard@law.columbia.edu>

**Sent:** Saturday, April 11, 2020 11:49 AM

**To:** Dunn, Alexandra <dunn.alexandra@epa.gov>; Rob Verchick <verchick@loyno.edu>; Gwen Keyes Fleming <gfleming@vnf.com>

**Cc:** A.J. Singletary <asingletary@vnf.com>; Stillman, Sarah <Stillman.Sarah@epa.gov>

**Subject:** Outline for SEER webinar -- April 17

Thanks to all of you for your responses on who should cover what topic. Based on these, here is what I suggest. For each of these topics, I'll pose a question to the indicated person. If more than one person is listed, the first person will provide the primary explanation, and the person or persons who follow will add any comments they wish on that topic. And even if you're not listed here, you're welcome to address a topic -- it would be great to have a free-flowing discussion. I have assigned a few topics to myself.

If there are any documents (e.g. EPA notices; blogs; client alerts) you would like posted for the audience, please send them to me.

I would welcome any suggested changes to this, whether as to topics, assignments, or order.

SEER has posted notice of the program [here](#). It would be great if you could send this to your networks, post this on social media, and otherwise spread the word.

Thanks very much.

1. EPA enforcement discretion -- AD, GF, RV
2. State enforcement discretion statements -- GF, RV
3. FIFRA/TSCA issues: Approval of disinfectants, pesticides -- AD
4. Medical waste issues -- GF
5. What environmentally-related activities are considered essential services? -- GF
6. Health and safety of workers performing essential services -- RV
7. Effect on cleanup of contaminated sites -- MG
8. Effect on monitoring and reporting requirements -- GF
9. Effect on consent degree obligations -- GF
10. Effect on environmental due diligence for transactions -- MG, GF
11. Emergency powers of President and governors -- RV
12. Effect of disaster declarations under Stafford Act -- RV
13. Exemptions from NEPA and state NEPAs -- MG
14. Disproportionate impact of COVID-19 crisis on EJ communities -- RV

15. Impact of air pollution on COVID-19 severity in EJ communities -- RV

16. Effect of emergency exemptions on EJ communities – experience from past disasters -- RV

17. Potential for industry abuse of emergency exemptions, enforcement discretion -- GF

On Fri, Apr 10, 2020 at 3:29 PM Stillman, Sarah <[Stillman.Sarah@epa.gov](mailto:Stillman.Sarah@epa.gov)> wrote:

Good afternoon all and happy Friday!

Alex will talk about EPA's enforcement flexibility under the OECA memo (listed as #1 below), if Robert is willing to share of course!

We are doing a lot of great work within our Office of Pesticide Programs, especially our antimicrobial division, so I am suggesting we pivot topic #4 to focus on the tools available under FIFRA that EPA is using to address the pandemic (e.g., listing of effective disinfectants, emerging viral pathogen and new sources ingredient guidances).

Please let me know if you have any questions.

I look forward to meeting you all in this virtual world we live in!

Sarah

---

**Sarah Stillman**

Attorney Advisor

Office of the Assistant Administrator

Office of Chemical Safety and Pollution Prevention

U.S. Environmental Protection Agency

Desk – (202) 564-6387

Cell – Ex. 6 Personal Privacy (PP)

---

**From:** Gwen Keyes Fleming <[gffleming@vnf.com](mailto:gffleming@vnf.com)>

**Sent:** Friday, April 10, 2020 1:45 PM

**To:** Dunn, Alexandra <[dunn.alexandra@epa.gov](mailto:dunn.alexandra@epa.gov)>; Robert Verchick <[verchick@loyno.edu](mailto:verchick@loyno.edu)>; Michael Gerrard <[MGerra@law.columbia.edu](mailto:MGerra@law.columbia.edu)>; A.J. Singletary <[asingletary@vnf.com](mailto:asingletary@vnf.com)>

**Cc:** Michelle Diffenderfer (<[MDiffenderfer@llw-law.com](mailto:MDiffenderfer@llw-law.com)> <[MDiffenderfer@llw-law.com](mailto:MDiffenderfer@llw-law.com)>); Sundell, Valentia <[Valentia.Sundell@americanbar.org](mailto:Valentia.Sundell@americanbar.org)>; Floyd, Susan Margaret <[sfloyd3@entergy.com](mailto:sfloyd3@entergy.com)>; Jonusaitis, Dana <[Dana.Jonusaitis@americanbar.org](mailto:Dana.Jonusaitis@americanbar.org)>; Read, Allison <[Allison.Read@americanbar.org](mailto:Allison.Read@americanbar.org)>; Karen Mignone <[karen.mignone@qualus.com](mailto:karen.mignone@qualus.com)>; Jesse James (<[jessejajames@gmail.com](mailto:jessejajames@gmail.com)> <[jessejajames@gmail.com](mailto:jessejajames@gmail.com)>); Blaine Early <[bearly@stites.com](mailto:bearly@stites.com)>; Giddings, Daniel <[giddings.daniel@epa.gov](mailto:giddings.daniel@epa.gov)>; Stillman, Sarah <[Stillman.Sarah@epa.gov](mailto:Stillman.Sarah@epa.gov)>

**Subject:** RE: ABA SEER Program on Environmental Law During COVID-19 Crisis

Looping A.J. Singletary who will be helping me as well. We will send you our suggested topics shortly.

Thanks,

Gwen

**Gwendolyn Keyes Fleming | Partner**



1050 Thomas Jefferson Street, NW

ED\_004611F\_00000022-00004

OECA COVID-19 2020  
FOIAs\_Production006

Washington, DC 20007

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**From:** Dunn, Alexandra [<mailto:dunn.alexandra@epa.gov>]

**Sent:** Thursday, April 09, 2020 3:56 PM

**To:** Robert Verchick; Michael Gerrard

**Cc:** Gwen Keyes Fleming; Michelle Diffenderfer ([MDiffenderfer@llw-law.com](mailto:MDiffenderfer@llw-law.com)); Sundell, Valentia; Floyd, Susan Margaret; Jonusaitis, Dana; Read, Allison; Karen Mignone; Jesse James ([jessejayjames@gmail.com](mailto:jessejayjames@gmail.com)); Blaine Early; Giddings, Daniel; Stillman, Sarah

**Subject:** RE: ABA SEER Program on Environmental Law During COVID-19 Crisis

Caution: External Email.

Adding Sarah Stillman who is helping me prepare. We will send my list shortly. It will not be as long as Rob's! I may add some topics that were not on the original list as a consequence.

Alexandra Dapolito Dunn, Esq.  
Assistant Administrator  
Office of Chemical Safety and Pollution Prevention  
US Environmental Protection Agency  
Washington, DC

---

**From:** Robert Verchick <[verchick@loyno.edu](mailto:verchick@loyno.edu)>

**Sent:** Thursday, April 9, 2020 2:58 PM

**To:** Michael Gerrard <[MGerra@law.columbia.edu](mailto:MGerra@law.columbia.edu)>

**Cc:** Dunn, Alexandra <[dunn.alexandra@epa.gov](mailto:dunn.alexandra@epa.gov)>; Gwen Keyes Fleming <[gfleming@vnf.com](mailto:gfleming@vnf.com)>; Michelle Diffenderfer ([MDiffenderfer@llw-law.com](mailto:MDiffenderfer@llw-law.com)) <[MDiffenderfer@llw-law.com](mailto:MDiffenderfer@llw-law.com)>; Sundell, Valentia <[Valentia.Sundell@americanbar.org](mailto:Valentia.Sundell@americanbar.org)>; Floyd, Susan Margaret <[sfloyd3@entergy.com](mailto:sfloyd3@entergy.com)>; Jonusaitis, Dana <[Dana.Jonusaitis@americanbar.org](mailto:Dana.Jonusaitis@americanbar.org)>; Read, Allison <[Allison.Read@americanbar.org](mailto:Allison.Read@americanbar.org)>; Karen Mignone <[karen.mignone@qualus.com](mailto:karen.mignone@qualus.com)>; Jesse James ([jessejayjames@gmail.com](mailto:jessejayjames@gmail.com)) <[jessejayjames@gmail.com](mailto:jessejayjames@gmail.com)>; Blaine Early <[bearly@stites.com](mailto:bearly@stites.com)>; Giddings, Daniel <[giddings.daniel@epa.gov](mailto:giddings.daniel@epa.gov)>

**Subject:** Re: ABA SEER Program on Environmental Law During COVID-19 Crisis

Michael,

Thanks for assigning this impossible task! My list is below. I'm very flexible on this. The criteria I used: relative public importance, topics that fit well together, topics I have more knowledge about, topics that say something about broader structural issues. Looking forward to seeing others' lists.

Rob

1. EPA enforcement discretion (Susan Bodine 3/26/20 memo)
3. State enforcement discretion statements

6. Health and safety of workers performing essential services
15. Emergency powers of President and governors
16. Effect of disaster declarations under Stafford Act
19. Disproportionate impact of COVID-19 crisis on EJ communities
20. Impact of air pollution on COVID-19 severity in EJ communities
21. Effect of emergency exemptions on EJ communities – experience from past disasters

On Apr 8, 2020, at 8:09 PM, Michael Gerrard <[MGerra@law.columbia.edu](mailto:MGerra@law.columbia.edu)> wrote:

Alex, Gwen, Rob --

In preparation for our webinar "Environmental Law During the COVID-19 Crisis: Emergency Exemptions and Response (Friday, April 17, 1:00 - 2:30 pm Eastern), below is a list of suggested topics. I would appreciate it if each of you would indicate which of the topics you would like to cover, and also any other topics that we think we should cover. The people who are cc'd are also welcome to suggest additional topics. I'll then put together a proposed outline indicating who will cover what, and in what sequence. The program will be more interesting if we have back-and-forth rather than just four 20-minute talks, so I suggest that I direct questions to each of you concerning the topics we all agree upon.

We can also provide links to written materials that may be of interest to the viewers. I hope that SEER can get the flyer out right away so that we have a good audience.

Mike Gerrard

1. EPA enforcement discretion (Susan Bodine 3/26/20 memo)
2. PHMSA enforcement discretion
4. FIFRA/TSCA issues: Approval of disinfectants, pesticides
5. What environmentally-related activities are considered essential services?
7. Effect on cleanup of contaminated sites
8. Effect on public water systems
9. Effect on wastewater treatment systems
10. Effect on monitoring and reporting requirements
11. Medical waste issues
12. Fuel waiver
13. Effect on consent degree obligations
14. Effect on environmental due diligence for transactions
17. Exemptions from NEPA and state NEPAs
18. How long will federal and state waivers remain in place?
22. Potential for industry abuse of emergency exemptions, enforcement discretion

On Thu, Apr 2, 2020 at 12:59 PM Giddings, Daniel <[giddings.daniel@epa.gov](mailto:giddings.daniel@epa.gov)> wrote:  
Good afternoon,

I'm responding on behalf of Alex Dunn.

Friday, April 17 from 1 p.m. to 2:30 p.m. is the window that works best for Alex.

Best,

Danny Giddings  
Special Assistant to the Assistant Administrator  
Office of Chemical Safety and Pollution Prevention  
U.S. Environmental Protection Agency  
Desk: 202-564-0320  
Cell: Ex. 6 Personal Privacy (PP)

---

**From:** Gwen Keyes Fleming <gfleming@vnf.com>

**Sent:** Thursday, April 02, 2020 9:43 AM

**To:** Michael Gerrard <MGerra@law.columbia.edu>; Dunn, Alexandra <dunn.alexandra@epa.gov>; Rob Verchick <verchick@loyno.edu>

**Cc:** Michelle Diffenderfer (MDiffenderfer@llw-law.com) <MDiffenderfer@llw-law.com>; Sundell, Valentia <Valentia.Sundell@americanbar.org>; Floyd, Susan Margaret <sfloyd3@entergy.com>; Jonusaitis, Dana <Dana.Jonusaitis@americanbar.org>; Read, Allison <Allison.Read@americanbar.org>; Karen Mignone <karen.mignone@qualus.com>; Jesse James (jessejayjames@gmail.com) <jessejayjames@gmail.com>; Blaine Early <bearly@stites.com>; Giddings, Daniel <giddings.daniel@epa.gov>

**Subject:** RE: ABA SEER Program on Environmental Law During COVID-19 Crisis

The 14<sup>th</sup>, 15<sup>th</sup> & 17<sup>th</sup> work best for me. I'm licensed and in good standing in the Georgia and D.C. Bar Associations.

**Gwendolyn Keyes Fleming | Partner**

<image001.png>

1050 Thomas Jefferson Street, NW  
Washington, DC 20007  
O: (202) 298-1928 | C: (202) 594-7481  
gfleming@vnf.com | vnf.com

*Admitted to practice in Georgia and the District of Columbia*

<image002.png> **Named 2020 "Law Firm of the Year" for Natural Resources Law.**

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**From:** Michael Gerrard [mailto:MGerra@law.columbia.edu]

**Sent:** Wednesday, April 01, 2020 8:34 PM

**To:** Dunn Alexandra; Gwen Keyes Fleming; Rob Verchick

**Cc:** Michelle Diffenderfer (MDiffenderfer@llw-law.com); Sundell, Valentia; Floyd, Susan Margaret; Jonusaitis, Dana; Read, Allison; Karen Mignone; Jesse James (jessejayjames@gmail.com); Blaine Early; Daniel Giddings

**Subject:** ABA SEER Program on Environmental Law During COVID-19 Crisis

Caution: External Email.

Alex, Gwen, Rob --

Thank you very much for agreeing to join me on the ABA SEER webinar. It is tentatively entitled "Environmental Law During the COVID-19 Crisis: Emergency Exemptions and Response."

The first thing we need is to pick a date and time. I suggest 1:00 - 2:30 pm Eastern on one of these dates: April 13, 14, 15, or 17. Please let me know what works for you. This is a tighter time frame than most ABA programs, but in view of the emergency nature of the subject matter, speed seems appropriate.

Please also confirm whether you are a licensed attorney in good standing. The ABA needs that information for its records.

Once we pin down a date, I'll be back in touch to discuss format, division of topics, and what written materials we may want to post. This isn't a CLE program but viewers find written materials helpful. The materials needn't be prepared for this program, but we need to make sure we are not posting (as opposed to linking to) copyrighted materials without permission.

I am copying the relevant officers and staff of SEER, who can correct me if I got any of the above wrong.

I look forward to working with you to make this program as useful as possible to the thousands of environmental lawyers who belong to SEER, many of whom are grappling with the issues that this program will address.

Michael

--

**Michael B. Gerrard**

Andrew Sabin Professor of Professional Practice

Director, Sabin Center for Climate Change Law

Columbia Law School

435 West 116th Street

New York, New York 10027

Telephone: (212) 854-3287

Facsimile: (212) 854-7946

[michael.gerrard@law.columbia.edu](mailto:michael.gerrard@law.columbia.edu)

[www.columbiaclimatelaw.com](http://www.columbiaclimatelaw.com)

---

**To:** Bodine, Susan[bodine.susan@epa.gov]; Holmes, Carol[Holmes.Carol@epa.gov]; Baptista, Chrisna[Baptista.Chrisna@epa.gov]  
**Cc:** Kelley, Rosemarie[Kelley.Rosemarie@epa.gov]; Pollins, Mark[Pollins.Mark@epa.gov]; Johnson, Kathleen[Johnson.Kathleen@epa.gov]; Starfield, Lawrence[Starfield.Lawrence@epa.gov]; Irving, John[Irving.John@epa.gov]; Shiffman, Cari[Shiffman.Cari@epa.gov]; Mirza, Sabah[Mirza.Sabah@epa.gov]; Tran, Victoria[tran.victoria@epa.gov]; Koslow, Karin[Koslow.Karin@epa.gov]; Theis, Joseph[Theis.Joseph@epa.gov]  
**From:** Fogarty, Johnpc [/O=EXCHANGELABS/OU=EXCHANGE ADMINISTRATIVE GROUP (FYDIBOHF23SPDLT)/CN=RECIPIENTS/CN=8546B387C687410D88EEEE387DADDF56-JFOGAR02]  
**Sent:** Wed 4/29/2020 2:41:42 PM (UTC)  
**Subject:** RE: Clean 2nd Batch Temp. Enf. Discretion Policy FAQs  
[Draft 2nd batch public QAs on temp COVID19 enf policy v2.CLEAN.4.29.2020.docx](#)

The generic question is one of the ones that we are working on in followup to last week’s general. The suggestion was simply to emphasize **Ex. 5 Deliberative Process (DP)** A clean copy of the FAQs is attached with that sentence deleted. Thanks!

**From:** Bodine, Susan <bodine.susan@epa.gov>  
**Sent:** Wednesday, April 29, 2020 9:08 AM  
**To:** Fogarty, Johnpc <Fogarty.Johnpc@epa.gov>; Holmes, Carol <Holmes.Carol@epa.gov>; Baptista, Chrisna <Baptista.Chrisna@epa.gov>  
**Cc:** Kelley, Rosemarie <Kelley.Rosemarie@epa.gov>; Pollins, Mark <Pollins.Mark@epa.gov>; Johnson, Kathleen <Johnson.Kathleen@epa.gov>; Starfield, Lawrence <Starfield.Lawrence@epa.gov>; Irving, John <Irving.John@epa.gov>; Shiffman, Cari <Shiffman.Cari@epa.gov>; Mirza, Sabah <Mirza.Sabah@epa.gov>; Tran, Victoria <tran.victoria@epa.gov>; Koslow, Karin <Koslow.Karin@epa.gov>; Theis, Joseph <Theis.Joseph@epa.gov>  
**Subject:** RE: Clean 2nd Batch Temp. Enf. Discretion Policy FAQs

**Ex. 5 Deliberative Process (DP)** See below.

# Ex. 5 Deliberative Process (DP)

**From:** Fogarty, Johnpc <Fogarty.Johnpc@epa.gov>  
**Sent:** Wednesday, April 29, 2020 8:30 AM  
**To:** Bodine, Susan <bodine.susan@epa.gov>; Holmes, Carol <Holmes.Carol@epa.gov>; Baptista, Chrisna <Baptista.Chrisna@epa.gov>  
**Cc:** Kelley, Rosemarie <Kelley.Rosemarie@epa.gov>; Pollins, Mark <Pollins.Mark@epa.gov>; Johnson, Kathleen <Johnson.Kathleen@epa.gov>; Starfield, Lawrence <Starfield.Lawrence@epa.gov>; Irving, John <Irving.John@epa.gov>; Shiffman, Cari <Shiffman.Cari@epa.gov>; Mirza, Sabah <Mirza.Sabah@epa.gov>; Tran, Victoria <tran.victoria@epa.gov>; Koslow, Karin <Koslow.Karin@epa.gov>; Theis, Joseph <Theis.Joseph@epa.gov>  
**Subject:** RE: Clean 2nd Batch Temp. Enf. Discretion Policy FAQs

Susan- we had one minor edit to question #11, and **Ex. 5 Deliberative Process (DP)**  
**Ex. 5 Deliberative Process (DP)**

Thanks.

---

**From:** Bodine, Susan <[bodine.susan@epa.gov](mailto:bodine.susan@epa.gov)>

**Sent:** Tuesday, April 28, 2020 4:20 PM

**To:** Holmes, Carol <[Holmes.Carol@epa.gov](mailto:Holmes.Carol@epa.gov)>; Fogarty, Johnpc <[Fogarty.Johnpc@epa.gov](mailto:Fogarty.Johnpc@epa.gov)>; Baptista, Chrisna <[Baptista.Chrisna@epa.gov](mailto:Baptista.Chrisna@epa.gov)>

**Cc:** Kelley, Rosemarie <[Kelley.Rosemarie@epa.gov](mailto:Kelley.Rosemarie@epa.gov)>; Pollins, Mark <[Pollins.Mark@epa.gov](mailto:Pollins.Mark@epa.gov)>; Johnson, Kathleen <[Johnson.Kathleen@epa.gov](mailto:Johnson.Kathleen@epa.gov)>; Starfield, Lawrence <[Starfield.Lawrence@epa.gov](mailto:Starfield.Lawrence@epa.gov)>; Irving, John <[Irving.John@epa.gov](mailto:Irving.John@epa.gov)>; Shiffman, Cari <[Shiffman.Cari@epa.gov](mailto:Shiffman.Cari@epa.gov)>; Mirza, Sabah <[Mirza.Sabah@epa.gov](mailto:Mirza.Sabah@epa.gov)>; Tran, Victoria <[tran.victoria@epa.gov](mailto:tran.victoria@epa.gov)>; Koslow, Karin <[Koslow.Karin@epa.gov](mailto:Koslow.Karin@epa.gov)>; Theis, Joseph <[Theis.Joseph@epa.gov](mailto:Theis.Joseph@epa.gov)>

**Subject:** RE: Clean 2nd Batch Temp. Enf. Discretion Policy FAQs

Here are the combined FAQs ready for me to send. I added language

**Ex. 5 Deliberative Process (DP)**

**Ex. 5 Deliberative Process (DP)**

Please take a quick look.

---

**From:** Holmes, Carol <[Holmes.Carol@epa.gov](mailto:Holmes.Carol@epa.gov)>

**Sent:** Monday, April 27, 2020 6:56 PM

**To:** Bodine, Susan <[bodine.susan@epa.gov](mailto:bodine.susan@epa.gov)>; Fogarty, Johnpc <[Fogarty.Johnpc@epa.gov](mailto:Fogarty.Johnpc@epa.gov)>; Baptista, Chrisna <[Baptista.Chrisna@epa.gov](mailto:Baptista.Chrisna@epa.gov)>

**Cc:** Kelley, Rosemarie <[Kelley.Rosemarie@epa.gov](mailto:Kelley.Rosemarie@epa.gov)>; Pollins, Mark <[Pollins.Mark@epa.gov](mailto:Pollins.Mark@epa.gov)>; Johnson, Kathleen <[Johnson.Kathleen@epa.gov](mailto:Johnson.Kathleen@epa.gov)>; Starfield, Lawrence <[Starfield.Lawrence@epa.gov](mailto:Starfield.Lawrence@epa.gov)>; Irving, John <[Irving.John@epa.gov](mailto:Irving.John@epa.gov)>; Shiffman, Cari <[Shiffman.Cari@epa.gov](mailto:Shiffman.Cari@epa.gov)>; Mirza, Sabah <[Mirza.Sabah@epa.gov](mailto:Mirza.Sabah@epa.gov)>; Tran, Victoria <[tran.victoria@epa.gov](mailto:tran.victoria@epa.gov)>; Koslow, Karin <[Koslow.Karin@epa.gov](mailto:Koslow.Karin@epa.gov)>; Theis, Joseph <[Theis.Joseph@epa.gov](mailto:Theis.Joseph@epa.gov)>

**Subject:** RE: Clean 2nd Batch Temp. Enf. Discretion Policy FAQs

Hi Susan – we reviewed and had made some minor edits to the Water FAQs you sent

**Ex. 5 Deliberative Process (DP)**

**Ex. 5 Deliberative Process (DP)**

However, late this afternoon, OW reached out to me to review their revisions to the same Q&A, apparently in response to our earlier comments. I've provided those OW proposed revisions in comment balloons in the attached. Thanks, Carol

May contain sensitive communication for internal deliberations only, attorney-client communication, attorney work product, and/or enforcement sensitive information. Do not distribute outside the U.S. Government.

---

Carol S. Holmes

Senior Counsel

Crosscutting Policy Staff

Office of Civil Enforcement (MC 2241A)

U.S. Environmental Protection Agency

1200 Pennsylvania Ave, NW

Washington, DC 20460

Phone (202) 564-8709

---

**From:** Bodine, Susan <[bodine.susan@epa.gov](mailto:bodine.susan@epa.gov)>

**Sent:** Monday, April 27, 2020 11:16 AM

**To:** Holmes, Carol <[Holmes.Carol@epa.gov](mailto:Holmes.Carol@epa.gov)>; Fogarty, Johnpc <[Fogarty.Johnpc@epa.gov](mailto:Fogarty.Johnpc@epa.gov)>; Baptista, Chrisna <[Baptista.Chrisna@epa.gov](mailto:Baptista.Chrisna@epa.gov)>

**Cc:** Kelley, Rosemarie <[Kelley.Rosemarie@epa.gov](mailto:Kelley.Rosemarie@epa.gov)>; Pollins, Mark <[Pollins.Mark@epa.gov](mailto:Pollins.Mark@epa.gov)>; Johnson, Kathleen <[Johnson.Kathleen@epa.gov](mailto:Johnson.Kathleen@epa.gov)>; Starfield, Lawrence <[Starfield.Lawrence@epa.gov](mailto:Starfield.Lawrence@epa.gov)>; Irving, John <[Irving.John@epa.gov](mailto:Irving.John@epa.gov)>; Shiffman, Cari <[Shiffman.Cari@epa.gov](mailto:Shiffman.Cari@epa.gov)>; Mirza, Sabah <[Mirza.Sabah@epa.gov](mailto:Mirza.Sabah@epa.gov)>; Tran, Victoria <[tran.victoria@epa.gov](mailto:tran.victoria@epa.gov)>

**Subject:** FW: Clean 2nd Batch Temp. Enf. Discretion Policy FAQs

**Importance:** High



# Ex. 5 Deliberative Process (DP)

---

**From:** Shiffman, Cari <[Shiffman.Cari@epa.gov](mailto:Shiffman.Cari@epa.gov)>

**Sent:** Monday, April 27, 2020 9:47 AM

**To:** Bodine, Susan <[bodine.susan@epa.gov](mailto:bodine.susan@epa.gov)>; Starfield, Lawrence <[Starfield.Lawrence@epa.gov](mailto:Starfield.Lawrence@epa.gov)>; Irving, John <[Irving.John@epa.gov](mailto:Irving.John@epa.gov)>

**Cc:** Mirza, Sabah <[Mirza.Sabah@epa.gov](mailto:Mirza.Sabah@epa.gov)>; Tran, Victoria <[tran.victoria@epa.gov](mailto:tran.victoria@epa.gov)>

**Subject:** Clean 2nd Batch Temp. Enf. Discretion Policy FAQs

To share with OMB.

Thanks,

Cari Shiffman, Chief of Staff

U.S. Environmental Protection Agency

Office of Enforcement and Compliance Assurance

Office: (202) 564-2898 | Mobile: Ex. 6 Personal Privacy (PP)

**To:** Bodine, Susan[bodine.susan@epa.gov]  
**Cc:** Irving, John[Irving.John@epa.gov]; Kelley, Rosemarie[Kelley.Rosemarie@epa.gov]; Koslow, Karin[Koslow.Karin@epa.gov]; Johnson, Kathleen[Johnson.Kathleen@epa.gov]; Shiffman, Cari[Shiffman.Cari@epa.gov]  
**From:** Starfield, Lawrence[/O=EXCHANGELABS/OU=EXCHANGE ADMINISTRATIVE GROUP (FYDIBOHF23SPDLT)/CN=RECIPIENTS/CN=8A89D6CD217D4254A5879ABECB3F314E-STARFIELD, LAWRENCE]  
**Sent:** Mon 4/6/2020 11:28:05 PM (UTC)  
**Subject:** Region 8 RA meeting on the Temporary Enforcement Policy  
Western Energy Alliance Letter Re EPA COVID-19 Memo.pdf  
Questions for 4.9.20 EPA Webinar.pdf

Susan,

As you know, Greg Sopkin has agreed to have a call on Thursday with the Western Energy Alliance to discuss the Temporary Enforcement Discretion Policy, and the WEA has submitted a set of 10 questions that they'd like Greg to address (the WEA letter and questions are attached).

Ex. 5 Deliberative Process (DP)

Ex. 5 Deliberative Process (DP)

Ex. 5 Deliberative Process (DP)

Larry  
This message is CONFIDENTIAL, and may contain legally privileged information. If you are not the intended recipient, or believe you received this communication in error, please delete it immediately, do not copy, and notify the sender. Thank you.

**From:** Schefski, Kenneth <Schefski.Kenneth@epa.gov>  
**Sent:** Friday, April 3, 2020 4:55 PM  
**To:** Johnson, Kathleen <Johnson.Kathleen@epa.gov>  
**Cc:** Bohan, Suzanne <bohan.suzanne@epa.gov>; Dean, Abigail <Dean.Abigail@epa.gov>; Wilwerding, Joseph <Wilwerding.Joseph@epa.gov>; Kelley, Rosemarie <Kelley.Rosemarie@epa.gov>; Koslow, Karin <Koslow.Karin@epa.gov>  
**Subject:** FW: Joint Trades EPA Webinar Questions 4.9.20

Kathleen,  
  
Our RA has a call with members of the Western Energy Alliance (mostly upstream oil and gas operators) next week. WEA submitted the attached questions in advance:

Ex. 5 Deliberative Process (DP)

Ex. 5 Deliberative Process (DP)

Thanks, KC

K.C. Schefski  
Regional Counsel  
US EPA, Region 8  
1595 Wynkoop Street  
Denver, CO 80202

*This email is for the intended recipient only and may contain material that is privileged and/or confidential. If you believe you have received this email in error, please notify the sender. Thank you.*

---

**From:** Sethuraman, Jag <[Sethuraman.Jag@epa.gov](mailto:Sethuraman.Jag@epa.gov)>

**Sent:** Friday, April 3, 2020 1:54 PM

**To:** Bohan, Suzanne <[bohan.suzanne@epa.gov](mailto:bohan.suzanne@epa.gov)>; Schefski, Kenneth <[Schefski.Kenneth@epa.gov](mailto:Schefski.Kenneth@epa.gov)>; Daly, Carl <[Daly.Carl@epa.gov](mailto:Daly.Carl@epa.gov)>

**Cc:** Sopkin, Gregory <[sopkin.gregory@epa.gov](mailto:sopkin.gregory@epa.gov)>

**Subject:** FW: Joint Trades EPA Webinar Questions 4.9.20

Suzanne, KC and Carl,

As you may know, WEA has asked Greg to be available for a call on Thursday of next week. WEA submitted questions for Greg ahead of time. Greg asked that I send this to you to get him answers. I would appreciate it if you could get answers to these questions to Greg and I by noon on Wednesday, if possible. Please let me know if you have questions or concerns.

Thanks,

Jagadeesan Sethuraman  
Chief of Staff  
EPA Region 8  
303.312.6446  
[Sethuraman.Jag@epa.gov](mailto:Sethuraman.Jag@epa.gov)

---

**From:** Kate Pinson <[kpinson@westernenergyalliance.org](mailto:kpinson@westernenergyalliance.org)>

**Sent:** Friday, April 3, 2020 1:17 PM

**To:** Sethuraman, Jag <[Sethuraman.Jag@epa.gov](mailto:Sethuraman.Jag@epa.gov)>

**Cc:** Kathleen Sgamma <[ksgamma@westernenergyalliance.org](mailto:ksgamma@westernenergyalliance.org)>

**Subject:** Joint Trades EPA Webinar Questions 4.9.20

Jag,

Thank you for giving the Region 8 trades the opportunity to hear from EPA next week. We look forward to discussing COVID-19 Implications for EPA's Enforcement and Compliance Assurance Program with you and Greg. Please let me know if you have any questions or need for clarification regarding the attached PDF of questions from members.

Stay well,

Kate Noble Pinson  
Regulatory Analyst  
Western Energy Alliance  
1775 Sherman St., Suite 2700  
Denver, CO 80203  
(303) 501-1060 direct  
(303) 623-0987 main  
[kpinson@westernenergyalliance.org](mailto:kpinson@westernenergyalliance.org)  
[westernenergyalliance.org](http://westernenergyalliance.org)

**To:** Bohan, Suzanne[bohan.suzanne@epa.gov]; ECAD Directors and Deputies-Designees[ECAD\_Directors\_and\_Deputies-Designees@epa.gov]; Regional Counsels and Deputies[Regional\_Counsels\_and\_Deputies@epa.gov]  
**Cc:** Bodine, Susan[bodine.susan@epa.gov]; Starfield, Lawrence[Starfield.Lawrence@epa.gov]; Koslow, Karin[Koslow.Karin@epa.gov]; Johnson, Kathleen[Johnson.Kathleen@epa.gov]; Wilwerding, Joseph[Wilwerding.Joseph@epa.gov]; Dean, Abigail[Dean.Abigail@epa.gov]; Porter, Amy[Porter.Amy@epa.gov]; OCE DIVISION DIRECTORS AND ASSOCIATE DIRECTORS[OCEDIVISIONDIRECTORSANDASSOCIATEDIRECTORS@epa.gov]  
**From:** Kelley, Rosemarie[/O=EXCHANGELABS/OU=EXCHANGE ADMINISTRATIVE GROUP (FYDIBOHF23SPDLT)/CN=RECIPIENTS/CN=23B7C900323047FCA012DF62C58C4D22-RKELLEY]  
**Sent:** Wed 4/15/2020 1:20:17 AM (UTC)  
**Subject:** RE: ACTION: Review Path Forward Doc for Today's COVID-19 Call  
[path forward.04 14 20v2.1.docx](#)

Deliberative/ Enforcement Confidential

ED/RC Colleagues:

Attached for your review is the latest draft of the **Ex. 5 Deliberative Process (DP)**  
Tomorrow's COVID-19 call will be the final opportunity to gather any remaining feedback you have on this memo. The plan is to issue this communication this week. Thanks.

Rosemarie

---

**From:** Bohan, Suzanne <bohan.suzanne@epa.gov>  
**Sent:** Wednesday, April 08, 2020 1:23 PM  
**To:** ECAD Directors and Deputies-Designees <ECAD\_Directors\_and\_Deputies-Designees@epa.gov>; Regional Counsels and Deputies <Regional\_Counsels\_and\_Deputies@epa.gov>  
**Cc:** Bodine, Susan <bodine.susan@epa.gov>; Starfield, Lawrence <Starfield.Lawrence@epa.gov>; Kelley, Rosemarie <Kelley.Rosemarie@epa.gov>; Koslow, Karin <Koslow.Karin@epa.gov>; Johnson, Kathleen <Johnson.Kathleen@epa.gov>; Wilwerding, Joseph <Wilwerding.Joseph@epa.gov>; Dean, Abigail <Dean.Abigail@epa.gov>  
**Subject:** ACTION: Review Path Forward Doc for Today's COVID-19 Call  
**Importance:** High

Deliberative/ Enforcement Confidential

ED/RC Colleagues:

Attached for your review is the working draft of the **Ex. 5 Deliberative Process (DP)**  
work. We have 20 minutes set aside on today's COVID-19 call to discuss the path forward and gather your feedback on this memo.

Suzanne

*Suzanne J. Bohan, Director  
Enforcement and Compliance Assurance Division  
U.S. EPA, Region 8  
1595 Wynkoop Street  
Denver, CO 80202  
303.312.6925  
[Bohan.suzanne@epa.gov](mailto:Bohan.suzanne@epa.gov)*

Twitter: [@EPARegion8](#)  
Facebook: [U.S. EPA Region 8](#)  
Webpage: [EPA Region 8](#) (Mountains and Plains)



**To:** Bodine, Susan[bodine.susan@epa.gov]; Kelley, Rosemarie[Kelley.Rosemarie@epa.gov]; Saenz, Diana[Saenz.Diana@epa.gov]  
**Cc:** Starfield, Lawrence[Starfield.Lawrence@epa.gov]; Irving, John[Irving.John@epa.gov]; Shiffman, Cari[Shiffman.Cari@epa.gov]; Mirza, Sabah[Mirza.Sabah@epa.gov]; Tran, Victoria[tran.victoria@epa.gov]  
**From:** Sullivan, Greg[/O=EXCHANGELABS/OU=EXCHANGE ADMINISTRATIVE GROUP (FYDIBOHF23SPDLT)/CN=RECIPIENTS/CN=617761BAB33D4773B7F976B1EAD8B9B5-GSULLI02]  
**Sent:** Fri 4/17/2020 4:29:18 PM (UTC)  
**Subject:** RE: manifest signatures

Thanks. Diana and I are meeting with ORCR on Monday.

---

**From:** Bodine, Susan <bodine.susan@epa.gov>  
**Sent:** Friday, April 17, 2020 10:43 AM  
**To:** Kelley, Rosemarie <Kelley.Rosemarie@epa.gov>; Sullivan, Greg <Sullivan.Greg@epa.gov>; Saenz, Diana <Saenz.Diana@epa.gov>  
**Cc:** Starfield, Lawrence <Starfield.Lawrence@epa.gov>; Irving, John <Irving.John@epa.gov>; Shiffman, Cari <Shiffman.Cari@epa.gov>; Mirza, Sabah <Mirza.Sabah@epa.gov>; Tran, Victoria <tran.victoria@epa.gov>  
**Subject:** FW: manifest signatures

For whomever is engaging with ORCR on this.

**From:** [dcase@etc.org](mailto:dcase@etc.org) <[dcase@etc.org](mailto:dcase@etc.org)>  
**Sent:** Friday, April 17, 2020 9:51 AM  
**To:** Bodine, Susan <[bodine.susan@epa.gov](mailto:bodine.susan@epa.gov)>  
**Subject:** FW: manifest signatures

Hi Susan,

Attached is the DOT notice that allows transporters to write the name of the generator on the shipping paper for hazardous materials to maintain social distancing during the covid-19 emergency. This is the request we have made for hazardous waste manifests as well. I assume that OLEM/ORCR have been tied up with the e-Manifest Advisory Board this week, but we really do need a response as soon as possible.

Thank you for your assistance.

David Case

-----Original Message-----  
**From:** [dcase@etc.org](mailto:dcase@etc.org)  
**Sent:** Thursday, April 9, 2020 12:21pm  
**To:** "Susan Bodine" <[bodine.susan@epa.gov](mailto:bodine.susan@epa.gov)>  
**Subject:** manifest signatures

Susan,

For your information, New York and Massachusetts have issued enforcement discretion letters allowing drivers to maintain social distancing by waiving generator signatures during the COVID-19 emergency. You may want to refer these citations to your team by forwarding this email.

The two measures are the following:

Massachusetts DEP

**Agreement to authorize the shipments of hazardous waste via electronic signing of a hazardous waste manifest in order to maintain social distancing.**

A generator may enter into an agreement, by electronic mail or otherwise, with a transporter whereby the transporter may sign on behalf of the generator. The generator should, if possible, be present when the waste is shipped off-site. The generator shall maintain a copy of the agreement and make it available to the Department upon request.

<https://www.mass.gov/doc/guidance-on-managing-hazardous-waste-during-the-covid-19-emergency/download>

New York DEC

ED\_004611F\_00000072-00001

OECA COVID-19 2020  
FOIAs\_Production006

## Hazardous Waste Shipments

1. Affected parties shall use hybrid and electronic hazardous waste manifests, whenever those options are available to all parties listed on the manifest.
2. If the options listed in paragraph 1, above, are not available to all parties listed on the manifest and a paper-based hazardous waste manifest must be used, affected parties shall follow the specified procedure from Appendix 30 of 6 NYCRR Part 372 (Instructions for Hazardous Waste Manifest] for a transporter signing “on behalf of” a generator for a hazardous waste shipment.

[https://www.dec.ny.gov/docs/materials\\_minerals\\_pdf/tempsigprocovid2.pdf](https://www.dec.ny.gov/docs/materials_minerals_pdf/tempsigprocovid2.pdf)

## Appointment

---

**From:** Daniels, Joseph [Daniels.Joseph@epa.gov]  
**Sent:** 5/13/2020 3:09:04 PM  
**To:** Busterud, John [Busterud.John@epa.gov]; Dunn, Alexandra [dunn.alexandra@epa.gov]; Bodine, Susan [bodine.susan@epa.gov]; Wright, Peter [wright.peter@epa.gov]; Idsal, Anne [idsal.anne@epa.gov]; Sopkin, Gregory [sopkin.gregory@epa.gov]; Hladick, Christopher [hladick.christopher@epa.gov]; Meadows, Carrie Vicenta [Meadows.CarrieVicenta@epa.gov]; McQueen, Ken [McQueen.Ken@epa.gov]  
**CC:** Gill, Sonam [Gill.Sonam@epa.gov]; Cuneta, Markanthony [cuneta.markanthony@epa.gov]; Gutro, Doug [Gutro.Doug@epa.gov]; Johnson, Belinda [Johnson.Belinda@epa.gov]; Walker, Mary [walker.mary@epa.gov]; Ashbee, Blake [ashbee.blake@epa.gov]; Tyler, Tom [Tyler.Tom@epa.gov]; Giddings, Daniel [giddings.daniel@epa.gov]; Brown, KendraR [Brown.KendraR@epa.gov]; Grable, Melissa [Grable.Melissa@epa.gov]; Byck, Sabina [Byck.Sabina@epa.gov]; Hanley, Mary [Hanley.Mary@epa.gov]; Spraul, Greg [Spraul.Greg@epa.gov]; Girard, Alexander [girard.alexander@epa.gov]; Thiede, Kurt [thiede.kurt@epa.gov]; Liebau, Joseph [Liebau.Joseph@epa.gov]; Gahner, Pamela [gahner.pamela@epa.gov]; Tapp, Joshua [Tapp.Joshua@epa.gov]; Shiffman, Cari [Shiffman.Cari@epa.gov]; Mirza, Sabah [Mirza.Sabah@epa.gov]; Gulliford, Jim [gulliford.jim@epa.gov]; Manges, Ellen [Manges.Ellen@epa.gov]; Sherbina, Debra [Sherbina.Debra@epa.gov]; Holsman, Marianne [Holsman.Marianne@epa.gov]; Mutter, Andrew [mutter.andrew@epa.gov]; Ostendorf, Jody [ostendorf.jody@epa.gov]; Sethuraman, Jag [Sethuraman.Jag@epa.gov]; Fordham, Tami [Fordham.Tami@epa.gov]; Soltani, Beth [Soltani.Beth@epa.gov]; Cacho, Julia [Cacho.Julia@epa.gov]; Tatum, Stephen [Tatum.Stephen@epa.gov]; Gray, David [gray.david@epa.gov]; Wortman, Eric [Wortman.Eric@epa.gov]; Lindsay, Jane [lindsay.jane@epa.gov]; Deziel, Dennis [Deziel.Dennis@epa.gov]; Lopez, Peter [lopez.peter@epa.gov]; Subramanian, Hema [Subramanian.Hema@epa.gov]  
**Subject:** Local Government Advisory Committee (LGAC) Meeting  
**Attachments:** LGAC Member Concerns\_Final.pdf; LGAC 5.15.20 Agenda\_Internal.pdf  
**Location:** Dial-In Number: Ex. 6 Personal Privacy (PP)  
**Start:** 5/15/2020 3:00:00 PM  
**End:** 5/15/2020 6:00:00 PM  
**Show Time As:** Tentative

I am pleased to announce that we will be moving forward with our May LGAC meeting in virtual form. The final agenda and a document with member bios and concerns is attached to this invite.

**Dial-In Number:** Ex. 6 Personal Privacy (PP)

**Conference ID:** Ex. 6 Personal Privacy (PP)

## Appointment

---

**From:** Wilwerding, Joseph [Wilwerding.Joseph@epa.gov]  
**Sent:** 4/29/2020 10:27:19 AM  
**To:** Sutin, Elyana [Sutin.Elyana@epa.gov]; Irving, John [Irving.John@epa.gov]; ECAD Directors and Deputies-Designees [ECAD\_Directors\_and\_Deputies-Designees@epa.gov]; Bodine, Susan [bodine.susan@epa.gov]; Starfield, Lawrence [Starfield.Lawrence@epa.gov]; Kelley, Rosemarie [Kelley.Rosemarie@epa.gov]; Koslow, Karin [Koslow.Karin@epa.gov]; Hindin, David [Hindin.David@epa.gov]; Werner, Jacqueline [Werner.Jacqueline@epa.gov]; Dombrowski, John [Dombrowski.John@epa.gov]; Mackey, Cyndy [Mackey.Cyndy@epa.gov]; Leff, Karin [Leff.Karin@epa.gov]; Johnson, Kathleen [Johnson.Kathleen@epa.gov]; Regional Counsels and Deputies [Regional\_Counsels\_and\_Deputies@epa.gov]; Schefski, Kenneth [Schefski.Kenneth@epa.gov]  
**CC:** Dean, Abigail [Dean.Abigail@epa.gov]; Armstrong, Joan [Armstrong.Joan@epa.gov]; Gardner, Allison [Gardner.Allison@epa.gov]; Kowalski, Edward [Kowalski.Edward@epa.gov]; Rodrigues, Cecil [rodrigues.cecil@epa.gov]; Mastro, Donna [Mastro.Donna@epa.gov]; Kemker, Carol [Kemker.Carol@epa.gov]; Quast, Sylvia [Quast.Sylvia@epa.gov]; LaPosta, Dore [LaPosta.Dore@epa.gov]; Davies, Lauris [Davies.Lauris@epa.gov]; Lubbe, Wendy [Lubbe.Wendy@epa.gov]; Chow, James [chow.james@epa.gov]; Nelson, Leverett [nelson.leverett@epa.gov]; Simon, Paul [Simon.Paul@epa.gov]; Melvin, Karen [Melvin.Karen@epa.gov]; Meinhardt, Danielle [meinhardt.danielle@epa.gov]; Guerrero, Carmen [guerrero.carmen@epa.gov]; Busterud, Gretchen [Busterud.Gretchen@epa.gov]; Canzler, Erica [Canzler.Erica@epa.gov]; Humphrey, Leslie [Humphrey.Leslie@epa.gov]; Welton, Patricia [Welton.Patricia@epa.gov]; Marshalonis, Dino [Marshalonis.Dino@epa.gov]; Anderson, Julie [Anderson.Julie@epa.gov]; Russo, Rebecca [Russo.Rebecca@epa.gov]; Skelley, Dana [Skelley.Dana@epa.gov]; Gilley, Anne [Gilley.anne@epa.gov]; Miller, Amy [Miller.Amy@epa.gov]; Anderson, Andrew [anderson.andrew@epa.gov]; Jones, Joel E. [Jones.Joel@epa.gov]; Jerison, Joanna [Jerison.Joanna@epa.gov]; Breneman, Sara [breneman.sara@epa.gov]; Cozad, David [Cozad.David@epa.gov]; Pane, Vickie [Pane.Vickie@epa.gov]; Newman, Keriema [Newman.Keriema@epa.gov]; Thompson, Christopher [Thompson.Christopher@epa.gov]; Smith, Suzanne [Smith.Suzanne@epa.gov]; Shiffman, Cari [Shiffman.Cari@epa.gov]; Mirza, Sabah [Mirza.Sabah@epa.gov]; Seager, Cheryl [Seager.Cheryl@epa.gov]; Porter, Amy [Porter.Amy@epa.gov]; Segall, Martha [Segall.Martha@epa.gov]; Hill, Randy [Hill.Randy@epa.gov]; Duffy, Rick [Duffy.Rick@epa.gov]; Vizard, Elizabeth [Vizard.Elizabeth@epa.gov]; Carbone, Chad [Carbone.Chad@epa.gov]; Trombadore, Claire [Trombadore.Claire@epa.gov]; Palmer, Daniel [Palmer.Daniel@epa.gov]; Pollins, Mark [Pollins.Mark@epa.gov]; Melcher, John [Melcher.John@epa.gov]; OCE DIVISION DIRECTORS AND ASSOCIATE DIRECTORS [OCE DIVISION DIRECTORS AND ASSOCIATE DIRECTORS@epa.gov]; Bellot, Michael [Bellot.Michael@epa.gov]; Fogarty, Johnpc [Fogarty.Johnpc@epa.gov]; McCray, Deborah [Mccray.Deborah@epa.gov]; Tozzi, Lauren [Tozzi.Lauren@epa.gov]; Mckeever, Michele [Mckeever.Michele@epa.gov]; Kudla, Courtney [kudla.courtney@epa.gov]; Anderson, Kate [Anderson.Kate@epa.gov]; Berg, Elizabeth [Berg.Elizabeth@epa.gov]; Holmes, Carol [Holmes.Carol@epa.gov]; Rubini, Suzanne [Rubini.Suzanne@epa.gov]; Patterson, Kenneth [Patterson.Kenneth@epa.gov]; Gardner, Monica [Gardner.Monica@epa.gov]

**Subject:** Canceled: MEETING: LRC: ED/RC COVID-19 Update Call: **Ex. 6 Personal Privacy (PP)** [Dial-in Number]  
**Location:** Conference call

**Start:** 4/29/2020 7:00:00 PM

**End:** 4/29/2020 8:00:00 PM

**Show Time As:** Free

**Importance:** High

**Recurrence:** Weekly  
every Wednesday from 1:00 PM to 2:00 PM

Hi all, another full agenda for today. If you have a few minutes, please consider the questions in red below. Thanks.

**Ex. 6 Personal Privacy (PP)**



- **Agenda**

- Roll call/housekeeping (Joe) – 5 min
- LSASD Workload Analysis report-out (M. Harris/K. McGuire) – 10 min
- COVID-specific items
  - Inspections planned or performed, and circumstances (Abby) – 2 min
  - New guidances (Enforcement Discretion (Temp Policy), Inspections, Offsite Compliance Monitoring tracking) questions/comments (Abby) – 5 min
  - COVID-Related Site-Safety Plans and PPE: next steps report-out
    - HQ/Region/OLEM synchronization (J. Dombrowski) – 3 min
    -

## **Ex. 5 Deliberative Process (DP)**

- State Compliance Monitoring Strategies and related grants issues (C. Seager, S. Bohan) – 10 min

## **Ex. 5 Deliberative Process (DP)**

- Tiger Team report-out (K. Johnson) – 5 min
  - Congressional and FOIA requests
  - Other progress
- ORC (Abby) – 5 min
  - Virtual hearings
  - Electronic submission of comments

## Appointment

---

**From:** Wilwerding, Joseph [Wilwerding.Joseph@epa.gov]  
**Sent:** 4/29/2020 10:18:15 AM  
**To:** Kelley, Rosemarie [Kelley.Rosemarie@epa.gov]; Johnson, Kathleen [Johnson.Kathleen@epa.gov]; Sutin, Elyana [Sutin.Elyana@epa.gov]; Irving, John [Irving.John@epa.gov]; ECAD Directors and Deputies-Designees [ECAD\_Directors\_and\_Deputies-Designees@epa.gov]; Bodine, Susan [bodine.susan@epa.gov]; Starfield, Lawrence [Starfield.Lawrence@epa.gov]; Koslow, Karin [Koslow.Karin@epa.gov]; Hindin, David [Hindin.David@epa.gov]; Werner, Jacqueline [Werner.Jacqueline@epa.gov]; Dombrowski, John [Dombrowski.John@epa.gov]; Mackey, Cyndy [Mackey.Cyndy@epa.gov]; Leff, Karin [Leff.Karin@epa.gov]; Regional Counsels and Deputies [Regional\_Counsels\_and\_Deputies@epa.gov]; Schefski, Kenneth [Schefski.Kenneth@epa.gov]  
**CC:** Pollins, Mark [Pollins.Mark@epa.gov]; McCray, Deborah [McCray.Deborah@epa.gov]; Bohan, Suzanne [bohan.suzanne@epa.gov]; Gardner, Allison [Gardner.Allison@epa.gov]; Saenz, Diana [Saenz.Diana@epa.gov]; Brooks, Phillip [Brooks.Phillip@epa.gov]; Vizard, Elizabeth [Vizard.Elizabeth@epa.gov]; Dean, Abigail [Dean.Abigail@epa.gov]; Armstrong, Joan [Armstrong.Joan@epa.gov]; Kowalski, Edward [Kowalski.Edward@epa.gov]; Rodrigues, Cecil [rodrigues.cecil@epa.gov]; Mastro, Donna [Mastro.Donna@epa.gov]; Kemker, Carol [Kemker.Carol@epa.gov]; Quast, Sylvia [Quast.Sylvia@epa.gov]; LaPosta, Dore [LaPosta.Dore@epa.gov]; Davies, Lauris [Davies.Lauris@epa.gov]; Lubbe, Wendy [Lubbe.Wendy@epa.gov]; Chow, James [chow.james@epa.gov]; Nelson, Leverett [nelson.leverett@epa.gov]; Simon, Paul [Simon.Paul@epa.gov]; Melvin, Karen [Melvin.Karen@epa.gov]; Meinhardt, Danielle [meinhardt.danielle@epa.gov]; Guerrero, Carmen [guerrero.carmen@epa.gov]; Busterud, Gretchen [Busterud.Gretchen@epa.gov]; Canzler, Erica [Canzler.Erica@epa.gov]; Humphrey, Leslie [Humphrey.Leslie@epa.gov]; Welton, Patricia [Welton.Patricia@epa.gov]; Marshalonis, Dino [Marshalonis.Dino@epa.gov]; Anderson, Julie [Anderson.Julie@epa.gov]; Russo, Rebecca [Russo.Rebecca@epa.gov]; Skelley, Dana [Skelley.Dana@epa.gov]; Gilley, Anne [Gilley.anne@epa.gov]; Miller, Amy [Miller.Amy@epa.gov]; Anderson, Andrew [anderson.andrew@epa.gov]; Jones, Joel E. [Jones.Joel@epa.gov]; Jerison, Joanna [Jerison.Joanna@epa.gov]; Breneman, Sara [breneman.sara@epa.gov]; Cozad, David [Cozad.David@epa.gov]; Pane, Vickie [Pane.Vickie@epa.gov]; Newman, Keriema [Newman.Keriema@epa.gov]; Thompson, Christopher [Thompson.Christopher@epa.gov]; Smith, Suzanne [Smith.Suzanne@epa.gov]; Shiffman, Cari [Shiffman.Cari@epa.gov]; Mirza, Sabah [Mirza.Sabah@epa.gov]; Seager, Cheryl [Seager.Cheryl@epa.gov]; Porter, Amy [Porter.Amy@epa.gov]; Segall, Martha [Segall.Martha@epa.gov]; Hill, Randy [Hill.Randy@epa.gov]; Duffy, Rick [Duffy.Rick@epa.gov]; Carbone, Chad [Carbone.Chad@epa.gov]; Trombadore, Claire [Trombadore.Claire@epa.gov]; Palmer, Daniel [Palmer.Daniel@epa.gov]; Melcher, John [Melcher.John@epa.gov]; OCE DIVISION DIRECTORS AND ASSOCIATE DIRECTORS [OCEDIVISIONDIRECTORSANDASSOCIATEDIRECTORS@epa.gov]; Bellot, Michael [Bellot.Michael@epa.gov]; Fogarty, Johnpc [Fogarty.Johnpc@epa.gov]; Tozzi, Lauren [Tozzi.Lauren@epa.gov]; Mckeever, Michele [Mckeever.Michele@epa.gov]; Kudla, Courtney [kudla.courtney@epa.gov]; Anderson, Kate [Anderson.Kate@epa.gov]; Berg, Elizabeth [Berg.Elizabeth@epa.gov]; Holmes, Carol [Holmes.Carol@epa.gov]; Rubini, Suzanne [Rubini.Suzanne@epa.gov]; Patterson, Kenneth [Patterson.Kenneth@epa.gov]; Gardner, Monica [Gardner.Monica@epa.gov]

**Subject:** ED/RC COVID-19 Update Call: **Ex. 6 Personal Privacy (PP)** (Dial-in Number)  
**Location:** Conference call

**Start:** 4/29/2020 7:00:00 PM  
**End:** 4/29/2020 8:00:00 PM  
**Show Time As:** Tentative

**Recurrence:** Weekly  
every Wednesday from 1:00 PM to 2:00 PM

Hi all, another full agenda for today. If you have a few minutes, please consider the questions in red below. Thanks.

**Ex. 6 Personal Privacy (PP)** (Dial-in Number)

Conference ID: **Ex. 6 Personal Privacy (PP)**

- **Agenda**

- Roll call/housekeeping (Joe) – 5 min
- LSASD Workload Analysis report-out (M. Harris/K. McGuire) – 10 min
- COVID-specific items
  - Inspections planned or performed, and circumstances (Abby) – 2 min
  - New guidances (Enforcement Discretion (Temp Policy), Inspections, Offsite Compliance Monitoring tracking) questions/comments (Abby) – 5 min
  - COVID-Related Site-Safety Plans and PPE: next steps report-out
    - HQ/Region/OLEM synchronization (J. Dombrowski) – 3 min

**Ex. 7(E)**

- State Compliance Monitoring Strategies and related grants issues (C. Seager, S. Bohan) – 10 min
  - Are Regions hearing from states regarding needing flexibility on FY20 commitments due to COVID restrictions and how are Regions responding?
  - National guidance needed to promote consistency?
- Tiger Team report-out (K. Johnson) – 5 min
  - Congressional and FOIA requests
  - Other progress
- ORC (Abby) – 5 min
  - Virtual hearings
  - Electronic submission of comments

**To:** Bodine, Susan[bodine.susan@epa.gov]  
**From:** Idsal, Anne[/O=EXCHANGELABS/OU=EXCHANGE ADMINISTRATIVE GROUP (FYDIBOHF23SPDLT)/CN=RECIPIENTS/CN=B1BECA8121FB47A08E82B6BF2247A79B-IDSAL, ANNE]  
**Sent:** Tue 4/14/2020 8:48:10 PM (UTC)  
**Subject:** Re: Question

Sorry, make it 8:45 AM. I'll send an invite.

Sent from my iPad

> On Apr 14, 2020, at 4:44 PM, Bodine, Susan <bodine.susan@epa.gov> wrote:  
>  
> Happy to.  
> 8:30 - 9:30  
> 12-2  
> After 5  
>  
> -----Original Message-----  
> From: Idsal, Anne <idsal.anne@epa.gov>  
> Sent: Tuesday, April 14, 2020 4:39 PM  
> To: Bodine, Susan <bodine.susan@epa.gov>  
> Subject: Question  
>  
> Susan,  
>  
> I have a quick question related to the enforcement discretion policy during Covid-19. Do you have a quick couple of minutes to chat tomorrow?  
>  
> Anne  
>  
> Sent from my iPad

**To:** Susan Bodine[susan.bodine@verizon.net]  
**From:** bodine.susan@epa.gov[bodine.susan@epa.gov]  
**Sent:** Tue 4/28/2020 1:11:25 AM (UTC)  
**Subject:** Fwd: Clean 2nd Batch Temp. Enf. Discretion Policy FAQs  
[Water FAQs v2 for SPB.docx](#)  
[ATT00001.htm](#)

Sent from my iPhone

Begin forwarded message:

**From:** "Holmes, Carol" <Holmes.Carol@epa.gov>  
**Date:** April 27, 2020 at 6:55:51 PM EDT  
**To:** "Bodine, Susan" <bodine.susan@epa.gov>, "Fogarty, Johnpc" <Fogarty.Johnpc@epa.gov>, "Baptista, Chrisna" <Baptista.Chrisna@epa.gov>  
**Cc:** "Kelley, Rosemarie" <Kelley.Rosemarie@epa.gov>, "Pollins, Mark" <Pollins.Mark@epa.gov>, "Johnson, Kathleen" <Johnson.Kathleen@epa.gov>, "Starfield, Lawrence" <Starfield.Lawrence@epa.gov>, "Irving, John" <Irving.John@epa.gov>, "Shiffman, Cari" <Shiffman.Cari@epa.gov>, "Mirza, Sabah" <Mirza.Sabah@epa.gov>, "Tran, Victoria" <tran.victoria@epa.gov>, "Koslow, Karin" <Koslow.Karin@epa.gov>, "Theis, Joseph" <Theis.Joseph@epa.gov>  
**Subject: RE: Clean 2nd Batch Temp. Enf. Discretion Policy FAQs**

Hi Susan – we reviewed and had made some minor edits to the Water FAQs you sent (e.g., **Ex. 5 Deliberative Process (DP)**). However, late this afternoon, OW reached out to me to review their revisions to the same Q&A, apparently in response to our earlier comments. I've provided those OW proposed revisions in comment balloons in the attached. Thanks, Carol

May contain sensitive communication for internal deliberations only, attorney-client communication, attorney work product, and/or enforcement sensitive information. Do not distribute outside the U.S. Government.

---

Carol S. Holmes  
Senior Counsel  
Crosscutting Policy Staff  
Office of Civil Enforcement (MC 2241A)  
U.S. Environmental Protection Agency  
1200 Pennsylvania Ave, NW  
Washington, DC 20460  
Phone (202) 564-8709

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**From:** Bodine, Susan <bodine.susan@epa.gov>  
**Sent:** Monday, April 27, 2020 11:16 AM  
**To:** Holmes, Carol <Holmes.Carol@epa.gov>; Fogarty, Johnpc <Fogarty.Johnpc@epa.gov>; Baptista, Chrisna <Baptista.Chrisna@epa.gov>  
**Cc:** Kelley, Rosemarie <Kelley.Rosemarie@epa.gov>; Pollins, Mark <Pollins.Mark@epa.gov>; Johnson, Kathleen <Johnson.Kathleen@epa.gov>; Starfield, Lawrence <Starfield.Lawrence@epa.gov>; Irving, John <Irving.John@epa.gov>; Shiffman, Cari <Shiffman.Cari@epa.gov>; Mirza, Sabah <Mirza.Sabah@epa.gov>; Tran, Victoria <tran.victoria@epa.gov>  
**Subject:** FW: Clean 2nd Batch Temp. Enf. Discretion Policy FAQs  
**Importance:** High

# Ex. 5 Deliberative Process (DP)

---

**From:** Shiffman, Cari <[Shiffman.Cari@epa.gov](mailto:Shiffman.Cari@epa.gov)>

**Sent:** Monday, April 27, 2020 9:47 AM

**To:** Bodine, Susan <[bodine.susan@epa.gov](mailto:bodine.susan@epa.gov)>; Starfield, Lawrence <[Starfield.Lawrence@epa.gov](mailto:Starfield.Lawrence@epa.gov)>; Irving, John <[Irving.John@epa.gov](mailto:Irving.John@epa.gov)>

**Cc:** Mirza, Sabah <[Mirza.Sabah@epa.gov](mailto:Mirza.Sabah@epa.gov)>; Tran, Victoria <[tran.victoria@epa.gov](mailto:tran.victoria@epa.gov)>

**Subject:** Clean 2nd Batch Temp. Enf. Discretion Policy FAQs

To share with OMB.

Thanks,

Cari Shiffman, Chief of Staff

U.S. Environmental Protection Agency

Office of Enforcement and Compliance Assurance

Office: (202) 564-2898 | Mobile: Ex. 6 Personal Privacy (PP)

**Cc:** Fogarty, Johnpc[Fogarty.Johnpc@epa.gov]; Baptista, Chrisna[Baptista.Chrisna@epa.gov]; Kelley, Rosemarie[Kelley.Rosemarie@epa.gov]; Pollins, Mark[Pollins.Mark@epa.gov]; Johnson, Kathleen[Johnson.Kathleen@epa.gov]; Starfield, Lawrence[Starfield.Lawrence@epa.gov]; Irving, John[Irving.John@epa.gov]; Shiffman, Cari[Shiffman.Cari@epa.gov]; Mirza, Sabah[Mirza.Sabah@epa.gov]; Tran, Victoria[tran.victoria@epa.gov]; Koslow, Karin[Koslow.Karin@epa.gov]; Theis, Joseph[Theis.Joseph@epa.gov]  
**To:** Holmes, Carol[Holmes.Carol@epa.gov]  
**From:** bodine.susan@epa.gov[bodine.susan@epa.gov]  
**Sent:** Mon 4/27/2020 11:30:38 PM (UTC)  
**Subject:** Re: Clean 2nd Batch Temp. Enf. Discretion Policy FAQs

thanks

Sent from my iPhone

On Apr 27, 2020, at 6:55 PM, Holmes, Carol <Holmes.Carol@epa.gov> wrote:

Hi Susan – we reviewed and had made some minor edits to the Water FAQs you sent (e.g., **Ex. 5 Deliberative Process (DP)** However, late this afternoon, OW reached out to me to review their revisions to the same Q&A, apparently in response to our earlier comments. I've provided those OW proposed revisions in comment balloons in the attached. Thanks, Carol

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---

Carol S. Holmes  
Senior Counsel  
Crosscutting Policy Staff  
Office of Civil Enforcement (MC 2241A)  
U.S. Environmental Protection Agency  
1200 Pennsylvania Ave, NW  
Washington, DC 20460  
Phone (202) 564-8709

---

---

**From:** Bodine, Susan <bodine.susan@epa.gov>  
**Sent:** Monday, April 27, 2020 11:16 AM  
**To:** Holmes, Carol <Holmes.Carol@epa.gov>; Fogarty, Johnpc <Fogarty.Johnpc@epa.gov>; Baptista, Chrisna <Baptista.Chrisna@epa.gov>  
**Cc:** Kelley, Rosemarie <Kelley.Rosemarie@epa.gov>; Pollins, Mark <Pollins.Mark@epa.gov>; Johnson, Kathleen <Johnson.Kathleen@epa.gov>; Starfield, Lawrence <Starfield.Lawrence@epa.gov>; Irving, John <Irving.John@epa.gov>; Shiffman, Cari <Shiffman.Cari@epa.gov>; Mirza, Sabah <Mirza.Sabah@epa.gov>; Tran, Victoria <tran.victoria@epa.gov>  
**Subject:** FW: Clean 2nd Batch Temp. Enf. Discretion Policy FAQs  
**Importance:** High

**Ex. 5 Deliberative Process (DP)**

---

**From:** Shiffman, Cari <[Shiffman.Cari@epa.gov](mailto:Shiffman.Cari@epa.gov)>

**Sent:** Monday, April 27, 2020 9:47 AM

**To:** Bodine, Susan <[bodine.susan@epa.gov](mailto:bodine.susan@epa.gov)>; Starfield, Lawrence <[Starfield.Lawrence@epa.gov](mailto:Starfield.Lawrence@epa.gov)>; Irving, John <[Irving.John@epa.gov](mailto:Irving.John@epa.gov)>

**Cc:** Mirza, Sabah <[Mirza.Sabah@epa.gov](mailto:Mirza.Sabah@epa.gov)>; Tran, Victoria <[tran.victoria@epa.gov](mailto:tran.victoria@epa.gov)>

**Subject:** Clean 2nd Batch Temp. Enf. Discretion Policy FAQs

To share with OMB.

Thanks,

Cari Shiffman, Chief of Staff

U.S. Environmental Protection Agency

Office of Enforcement and Compliance Assurance

Office: (202) 564-2898 | Mobile: Ex. 6 Personal Privacy (PP)

<Water FAQs v2 for SPB.docx>



**To:** Bodine, Susan[bodine.susan@epa.gov]  
**Cc:** Holmes, Carol[Holmes.Carol@epa.gov]; Baptista, Chrisna[Baptista.Chrisna@epa.gov]; Kelley, Rosemarie[Kelley.Rosemarie@epa.gov]; Pollins, Mark[Pollins.Mark@epa.gov]; Johnson, Kathleen[Johnson.Kathleen@epa.gov]; Starfield, Lawrence[Starfield.Lawrence@epa.gov]; Irving, John[Irving.John@epa.gov]; Shiffman, Cari[Shiffman.Cari@epa.gov]; Mirza, Sabah[Mirza.Sabah@epa.gov]; Tran, Victoria[tran.victoria@epa.gov]; Koslow, Karin[Koslow.Karin@epa.gov]; Theis, Joseph[Theis.Joseph@epa.gov]  
**From:** Fogarty, Johnpc[/O=EXCHANGELABS/OU=EXCHANGE ADMINISTRATIVE GROUP (FYDIBOHF23SPDLT)/CN=RECIPIENTS/CN=8546B387C687410D88EEEE387DADDF56-JFOGAR02]  
**Sent:** Tue 4/28/2020 1:17:32 AM (UTC)  
**Subject:** Re: Clean 2nd Batch Temp. Enf. Discretion Policy FAQs

Ok -thank you.

Sent from my iPhone

On Apr 27, 2020, at 9:14 PM, Bodine, Susan <bodine.susan@epa.gov> wrote:

Looks good will add to FAQs for OMB review

Sent from my iPhone

On Apr 27, 2020, at 6:55 PM, Holmes, Carol <Holmes.Carol@epa.gov> wrote:

Hi Susan – we reviewed and had made some minor edits to the Water FAQs you sent

**Ex. 5 Deliberative Process (DP)**

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Senior Counsel  
Crosscutting Policy Staff  
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U.S. Environmental Protection Agency  
1200 Pennsylvania Ave, NW  
Washington, DC 20460  
Phone (202) 564-8709

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**From:** Bodine, Susan <bodine.susan@epa.gov>  
**Sent:** Monday, April 27, 2020 11:16 AM  
**To:** Holmes, Carol <Holmes.Carol@epa.gov>; Fogarty, Johnpc <Fogarty.Johnpc@epa.gov>; Baptista, Chrisna <Baptista.Chrisna@epa.gov>  
**Cc:** Kelley, Rosemarie <Kelley.Rosemarie@epa.gov>; Pollins, Mark <Pollins.Mark@epa.gov>; Johnson, Kathleen <Johnson.Kathleen@epa.gov>; Starfield, Lawrence <Starfield.Lawrence@epa.gov>; Irving, John <Irving.John@epa.gov>; Shiffman, Cari <Shiffman.Cari@epa.gov>; Mirza, Sabah <Mirza.Sabah@epa.gov>; Tran, Victoria <tran.victoria@epa.gov>

**Subject:** FW: Clean 2nd Batch Temp. Enf. Discretion Policy FAQs

**Importance:** High

# Ex. 5 Deliberative Process (DP)

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**From:** Shiffman, Cari <Shiffman.Cari@epa.gov>

**Sent:** Monday, April 27, 2020 9:47 AM

**To:** Bodine, Susan <bodine.susan@epa.gov>; Starfield, Lawrence <Starfield.Lawrence@epa.gov>; Irving, John <Irving.John@epa.gov>

**Cc:** Mirza, Sabah <Mirza.Sabah@epa.gov>; Tran, Victoria <tran.victoria@epa.gov>

**Subject:** Clean 2nd Batch Temp. Enf. Discretion Policy FAQs

To share with OMB.

Thanks,

Cari Shiffman, Chief of Staff

U.S. Environmental Protection Agency

Office of Enforcement and Compliance Assurance

Office: (202) 564-2898 | Mobile: Ex. 6 Personal Privacy (PP)

<Water FAQs v2 for SPB.docx>

## **Quarterly OECA and OITA Meeting**

Time: 4/1/20, 1:00pm-1:30pm

### **Agenda Topics**

- 1) COVID-related enforcement memo for tribes
  - Tribal outreach re: temporary enforcement discretion policy

**Assistant Administrator Talking Points**  
**Quarterly Assistant Administrator OECA and OITA Meeting**  
**Time: 4/1/20, 1:00pm-1:30pm**

- OITA/AIEO is holding its monthly conference call with the National Tribal Caucus (NTC) on April 1, 2020 from 2:00 – 3:00 p.m.
  - The NCT is a national body of high-level tribal advisors to EPA’s Senior Leadership.
  - The NTC’s primary focus is to identify and address tribal environmental issues that are national in scope, cross-agency or cross-media in nature, or that may be emerging or urgent.
- The NTC requested that OITA/AIEO add the temporary policy entitled “COVID-19 Implications for EPA’s Enforcement and Compliance Assurance Program” to the agenda for tomorrow’s conference call.
  - OITA’s Assistant Administrator is aware of the NTC’s request and the temporary policy’s placement on the agenda.OECA’s Kathleen Johnson is scheduled to speak to the NTC about the temporary policy

**To:** Bodine, Susan[bodine.susan@epa.gov]  
**Cc:** Forsgren, Lee[Forsgren.Lee@epa.gov]  
**From:** Kramer, Jessica L. [/O=EXCHANGELABS/OU=EXCHANGE ADMINISTRATIVE GROUP (FYDIBOHF23SPDLT)/CN=RECIPIENTS/CN=7112D115592049C6B99DC721BEA9EB3A-KRAMER, JES]  
**Sent:** Mon 4/13/2020 5:09:06 PM (UTC)  
**Subject:** Follow Up Question; COVID19 Flexibilities Memo; DELIBERATIVE DRAFT; INTERNAL  
OW-OECA COVID19 Flexibilities and Priorities 4-13-2020 OWMandOWOW.docx

Hi Susan,

I have a follow up question for you/your folks. It is on page 7 of the attached and is provided in a reply to a question from Carol Holmes. We are still in the process of responding to the remaining questions posed by OECA so please just review and provide a response to this specific question for now. Again, once I have a final version with edits from you and Matt incorporated and outstanding questions resolved I will recirculate a final version for your review.

Thanks,

Jess

Jessica L. Kramer  
Senior Counsel for the Assistant Administrator  
U.S. Environmental Protection Agency – Office of Water  
1200 Pennsylvania Avenue, N.W.  
Washington, D.C.  
Kramer.jessical@epa.gov  
(202) 564-6322

**To:** Bodine, Susan[bodine.susan@epa.gov]  
**From:** Starfield, Lawrence[/O=EXCHANGELABS/OU=EXCHANGE ADMINISTRATIVE GROUP (FYDIBOHF23SPDLT)/CN=RECIPIENTS/CN=8A89D6CD217D4254A5879ABECB3F314E-STARFIELD, LAWRENCE]  
**Sent:** Fri 5/15/2020 1:04:42 PM (UTC)  
**Subject:** FW: EPA/ENRD weekly leadership call agenda for Monday, May 18

Susan,

Note that OGC wants to put on Monday's DOJ call the new lawsuit challenging the Temporary Enforcement Policy. You may want to attend (or ask for a briefing by OGC before the call with DOJ?).

Larry

This message is CONFIDENTIAL, and may contain legally privileged information. If you are not the intended recipient, or believe you received this communication in error, please delete it immediately, do not copy, and notify the sender. Thank you.

---

**From:** Payne, James <payne.james@epa.gov>  
**Sent:** Thursday, May 14, 2020 6:17 PM  
**To:** Lipshultz, Jon (ENRD) <Jon.Lipshultz@usdoj.gov>; Starfield, Lawrence <Starfield.Lawrence@epa.gov>; Gustafson, Adam <Gustafson.Adam@epa.gov>; Lis-Coghlan, Kamila <lis-coghlan.kamila@epa.gov>  
**Subject:** RE: EPA/ENRD weekly leadership call agenda for Monday, May 18

Jack – David F and I just conferred, and we'd also like to include new 9-state SDNY challenge to Enforcement Memorandum during pandemic. Do it first on agenda, at 4pm?

Adding Larry.

Larry – if this topic is included, then maybe do this topic first at 4pm, with you and Susan joining.

---

**From:** Lipshultz, Jon (ENRD) <Jon.Lipshultz@usdoj.gov>  
**Sent:** Thursday, May 14, 2020 5:55 PM  
**To:** Gustafson, Adam <Gustafson.Adam@epa.gov>; Lis-Coghlan, Kamila <lis-coghlan.kamila@epa.gov>; Payne, James <payne.james@epa.gov>  
**Subject:** EPA/ENRD weekly leadership call agenda for Monday, May 18

Adam, Kamila and Jim – I already got a few agenda items for Monday's call from David F, but please let me know if any of you have additional items. Thanks. Jack

Jack Lipshultz  
Deputy Section Chief  
Environmental Defense Section  
202-514-2191

**To:** Mackey, Cyndy[Mackey.Cyndy@epa.gov]; Bodine, Susan[bodine.susan@epa.gov]; Starfield, Lawrence[Starfield.Lawrence@epa.gov]; Irving, John[Irving.John@epa.gov]  
**Cc:** Hull, George[Hull.George@epa.gov]; Egan, Patrick[egan.patrick@epa.gov]; DeLeon, Rafael[Deleon.Rafael@epa.gov]  
**From:** Woolford, James[O=EXCHANGELABS/OU=EXCHANGE ADMINISTRATIVE GROUP (FYDIBOHF23SPDLT)/CN=RECIPIENTS/CN=9A70358E7660435CBE6AFA87B7B9B71B-WOOLFORD, JAMES]  
**Sent:** Mon 3/30/2020 2:59:29 PM (UTC)  
**Subject:** RE: OSRE Draft Message to Regions Regarding OECA COVID-19 Document & CERCLA/RCRA CA

Understand that Peter is discussing the guidance with Andrew tomorrow.

We have a few items that require some tweaking per suggestions we received Friday and over the weekend. But the document is about 95-98% done.

Jim Woolford, Director, OSRTI

Phone: 703-603-8722 (work direct)  

Ex. 6 Personal Privacy (PP)

 (work cell)

Email: Woolford.james@epa.gov

---

**From:** Mackey, Cyndy <Mackey.Cyndy@epa.gov>  
**Sent:** Monday, March 30, 2020 10:58 AM  
**To:** Bodine, Susan <bodine.susan@epa.gov>; Starfield, Lawrence <Starfield.Lawrence@epa.gov>; Irving, John <Irving.John@epa.gov>  
**Cc:** Hull, George <Hull.George@epa.gov>; Egan, Patrick <egan.patrick@epa.gov>; DeLeon, Rafael <Deleon.Rafael@epa.gov>; Woolford, James <Woolford.James@epa.gov>  
**Subject:** OSRE Draft Message to Regions Regarding OECA COVID-19 Document & CERCLA/RCRA CA

Susan, Larry and John



# Ex. 5 Deliberative Process (DP)

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*Cyndy Mackey*  
Director, Office of Site Remediation Enforcement  
EPA-Office of Enforcement and Compliance Assurance (Mail Code-2271A)  
1200 Pennsylvania Ave., N.W. (Room-WJC 5206) Washington, DC 20460  
202 564-8206 (Direct Line)  
202 564-5110 (Office Line)  

Ex. 6 Personal Privacy (PP)

 Office Cell)

*This email is for the intended recipient only and may contain material that is privileged and/or confidential. If you believe you have received this email in error, please notify the sender. Thank you*



**To:** Bodine, Susan[bodine.susan@epa.gov]  
**From:** Johnson, Kathleen[/O=EXCHANGELABS/OU=EXCHANGE ADMINISTRATIVE GROUP (FYDIBOHF23SPDLT)/CN=RECIPIENTS/CN=D36DE0CD8EE14FF6A6AA2F1DF9B159F6-KJOHNS05]  
**Sent:** Tue 5/19/2020 4:45:00 PM (UTC)  
**Subject:** RE: State Oversight under EPA's Enforcement and Compliance Assurance Program

Yes, I will take care of it.

Kathleen H. Johnson  
Senior Policy Advisor  
Office of Enforcement and Compliance Assurance  
**Ex. 6 Personal Privacy (PP)**  
Johnson.kathleen@epa.gov

---

**From:** Bodine, Susan <bodine.susan@epa.gov>  
**Sent:** Tuesday, May 19, 2020 12:17 PM  
**To:** Johnson, Kathleen <Johnson.Kathleen@epa.gov>  
**Subject:** FW: State Oversight under EPA's Enforcement and Compliance Assurance Program

Can you get back to Brooks?

---

**From:** Smith, Brooks M. <Brooks.Smith@troutman.com>  
**Sent:** Tuesday, May 19, 2020 11:55 AM  
**To:** Bodine, Susan <bodine.susan@epa.gov>  
**Subject:** RE: State Oversight under EPA's Enforcement and Compliance Assurance Program

Sorry to pester – I know you must be swamped. Can you help connect me to an OECA contact for the question below? Thanks, Brooks

**Brooks M. Smith**  
troutman sanders  
Direct: 804.697.1414 | Mobile: 804.836.7331  
[brooks.smith@troutman.com](mailto:brooks.smith@troutman.com)

---

**From:** Smith, Brooks M.  
**Sent:** Wednesday, May 13, 2020 12:02 PM  
**To:** Bodine, Susan <bodine.susan@epa.gov>  
**Subject:** FW: State Oversight under EPA's Enforcement and Compliance Assurance Program

Hi Susan, I hope you are holding up ok in these strange and unsettling times. Would you or someone on your staff be able to offer some feedback on the highlighted question below? Best, Brooks

---

**From:** Fitzgerald, Kristin <Fitzgerald.Kristin@epa.gov>  
**Sent:** Wednesday, May 13, 2020 11:11 AM  
**To:** Blount, Gregory W. <gregory.blount@troutman.com>  
**Cc:** Knieser, Brian <knieser.brian@epa.gov>; Young, Jessica <Young.Jessica@epa.gov>  
**Subject:** RE: State Oversight under EPA's Enforcement and Compliance Assurance Program

**EXTERNAL SENDER**

Hi Greg –  
  
My family and I are doing well so far. Knock wood!

I personally do not have a window into your question. It would fall more to our enforcement office to answer something like this.

Sorry I couldn't be more helpful on this one,  
Kristin

---

**From:** Blount, Gregory W. <[gregory.blount@troutman.com](mailto:gregory.blount@troutman.com)>  
**Sent:** Wednesday, May 13, 2020 10:56 AM  
**To:** Fitzgerald, Kristin <[Fitzgerald.Kristin@epa.gov](mailto:Fitzgerald.Kristin@epa.gov)>  
**Subject:** State Oversight under EPA's Enforcement and Compliance Assurance Program

Hi again Kristin,

Hope you and your family remain well. This is a follow up to our previous discussion regarding RCRA compliance at retail and pharmacy operations during the COVID-19 crisis. As you know, this crisis has occurred as many states are still transitioning to Subpart P of the new Pharmaceutical Hazardous Waste Rule. Also, many pharmacies are on the front lines of the response to the pandemic and remain registered as LQGs where states have been unable or unwilling to adopt Subpart P.

Under the agency's COVID-19 enforcement discretion policy (which is very positive) and the section on State Oversight, it appears that EPA will take into account the current crisis as part of its periodic review under the State Review Framework and other state program oversight. However, the wording of the policy is unclear whether EPA is affirmatively encouraging state programs to not only take into account the safety and health of their inspectors and facility personnel when making decisions whether to conduct routine inspections, but also encouraging states to take into account the potential disruption in providing essential services that can result from these routine inspections. It would be very helpful to know whether EPA is communicating something along these lines as part of its periodic RCRA program reviews that are still taking place. I recall that you try to maintain good communication with the states in this regard, so any insight into this routine inspection frequency issue would be greatly appreciated.

Thanks very much, Greg  
**Gregory W. Blount**  
Direct: 404.885.3291 | Mobile: 404.309.3214  
[gregory.blount@troutman.com](mailto:gregory.blount@troutman.com)

---

**troutman sanders**  
600 Peachtree Street, NE, Suite 3000  
Atlanta, GA 30308  
[troutman.com](http://troutman.com)

---

A HIGHER COMMITMENT TO CLIENT CARE

Effective July 1, 2020, Troutman Sanders will combine with Pepper Hamilton to become Troutman Pepper Hamilton Sanders LLP (Troutman Pepper). My email address and phone number will remain unchanged following the combination. The new Troutman Pepper will offer expanded capabilities and practice strengths while continuing to deliver powerful solutions to clients' legal and business issues with a hallmark focus on client care.

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**To:** Bodine, Susan[bodine.susan@epa.gov]; Goodin, John[Goodin.John@epa.gov]  
**Cc:** Frazer, Brian[Frazer.Brian@epa.gov]; Martha Shimkin[mkeshimkin@gmail.com]; Mejias, Melissa[mejias.melissa@epa.gov]; Pollins, Mark[Pollins.Mark@epa.gov]  
**From:** Forsgren, Lee[/O=EXCHANGELABS/OU=EXCHANGE ADMINISTRATIVE GROUP (FYDIBOHF23SPDLT)/CN=RECIPIENTS/CN=A055D7329D5B470FBAA9920CE1B68A7D-FORSGREN, D]  
**Sent:** Mon 4/6/2020 7:04:21 PM (UTC)  
**Subject:** RE: question regarding sea-to-sea circulation

Sorry Susan. I misinterpreted. My apologies.

John have the Staff reach out ASAP.

**From:** Bodine, Susan <bodine.susan@epa.gov>  
**Sent:** Monday, April 6, 2020 3:02 PM  
**To:** Forsgren, Lee <Forsgren.Lee@epa.gov>; Goodin, John <Goodin.John@epa.gov>  
**Cc:** Frazer, Brian <Frazer.Brian@epa.gov>; Martha Shimkin <mkeshimkin@gmail.com>; Mejias, Melissa <mejias.melissa@epa.gov>; Pollins, Mark <Pollins.Mark@epa.gov>  
**Subject:** RE: question regarding sea-to-sea circulation

Ex. 5 Deliberative Process (DP)

**From:** Forsgren, Lee <Forsgren.Lee@epa.gov>  
**Sent:** Monday, April 6, 2020 2:56 PM  
**To:** Goodin, John <Goodin.John@epa.gov>  
**Cc:** Frazer, Brian <Frazer.Brian@epa.gov>; Martha Shimkin <mkeshimkin@gmail.com>; Mejias, Melissa <mejias.melissa@epa.gov>; Bodine, Susan <bodine.susan@epa.gov>  
**Subject:** RE: question regarding sea-to-sea circulation

John,

I just connected with Susan Bodine on this.

Ex. 5 Deliberative Process (DP)

Lee

**From:** Goodin, John <Goodin.John@epa.gov>  
**Sent:** Saturday, April 4, 2020 9:27 AM  
**To:** Forsgren, Lee <Forsgren.Lee@epa.gov>  
**Cc:** Frazer, Brian <Frazer.Brian@epa.gov>; Martha Shimkin <mkeshimkin@gmail.com>; Mejias, Melissa <mejias.melissa@epa.gov>; Bodine, Susan <bodine.susan@epa.gov>  
**Subject:** Re: question regarding sea-to-sea circulation

Thanks, Lee.

Sent from my iPhone

On Apr 4, 2020, at 9:19 AM, Forsgren, Lee <Forsgren.Lee@epa.gov> wrote:

John,

Ex. 5 DP / Ex. 7(A)

**Ex. 5 DP / Ex. 7(A)**

Am cc'ing Dave Ross and Susan Bodine so they are aware of this discussion.

Regards,  
Lee

Sent from my iPhone

On Apr 4, 2020, at 8:36 AM, Goodin, John <[Goodin.John@epa.gov](mailto:Goodin.John@epa.gov)> wrote:

DELIBERATIVE

Thanks, Brian—

**Ex. 5 DP / Ex. 7(A)**

**Ex. 5 DP / Ex. 7(A)**

Thanks,  
John

Sent from my iPhone

On Apr 3, 2020, at 6:13 PM, Frazer, Brian <[Frazer.Brian@epa.gov](mailto:Frazer.Brian@epa.gov)> wrote:

Deliberative

John,

See below.

**Ex. 5 Deliberative Process (DP)**

**Ex. 5 Deliberative Process (DP)**

Thanks

bf

\*\*\*\*\*

Brian Frazer, Director  
Oceans, Wetlands and Communities Division  
Office of Wetlands, Oceans and Watersheds  
US Environmental Protection Agency  
202-566-1652

Sent from my iPhone  
Begin forwarded message:

**From:** "Faulk, Jack" <[Faulk.Jack@epa.gov](mailto:Faulk.Jack@epa.gov)>  
**Date:** April 3, 2020 at 5:18:39 PM EDT  
**To:** "Frazer, Brian" <[Frazer.Brian@epa.gov](mailto:Frazer.Brian@epa.gov)>  
**Subject:** FW: question regarding sea-to-sea circulation

Brian,

# Ex. 5 DP / Ex. 7(A)

Thanks.

Jack

Permit Language: Discharges from pools and spas are authorized ... provided pool and spa water to be discharged is dechlorinated and/or debrominated, and discharge occurs while the vessel is underway. To be considered dechlorinated, the total residual chlorine in the pool or spa effluent must be less than 100 µg/l if the pool or spa water is discharged without going through an Advanced Wastewater Treatment System (AWTS). To be considered debrominated, the total residual oxidant in the pool or spa effluent must be below 25 µg/l if the pool or spa water is discharged without going through an AWTS. Pool and spa water may be added to the graywater treatment systems; however, any resultant discharge must meet all standards and requirements found in Part 5.1.1.1 and must be dechlorinated and/or debrominated as applicable.

---

**From:** Rigl, Nikki (CarnCorp) <[nrigl@carnival.com](mailto:nrigl@carnival.com)>

**Sent:** Friday, April 03, 2020 4:37 PM

**To:** Faulk, Jack <[Faulk.Jack@epa.gov](mailto:Faulk.Jack@epa.gov)>

**Cc:** Tombolesi, Emilio (CarnCorp) <[ETombolesi@carnival.com](mailto:ETombolesi@carnival.com)>; Jones, Denita (CarnCorp) <[DJones3@carnival.com](mailto:DJones3@carnival.com)>

**Subject:** question regarding sea-to-sea circulation

Good afternoon Jack,

Thank you very much for your support thus far in sharing the EPA's position with respect to COVID-19 and EPA compliance implications.

During our temporary stay of cruise ship operations, some of our ships are laid up off the U.S. coast at anchor >1NM but within 3NM (and therefore within VGP waters).

We are mindful of the restrictions on discharges of pool water within VGP

waters per Section 5.1.1.2, requiring generally that discharges be dechlorinated, debrominated, and carried out underway.

However, some of our ships laid up in this location will be circulating unchlorinated sea water in their recreational water facilities in order to maintain the pipes and pumps of the pool system and to avoid corrosion. Without chlorine, this water is equivalent to sea water cooling circuits without an environmental impact.

We are seeking the EPA's approval to carry out such sea-to-sea circulation in VGP waters during this temporary stay of operations.

We appreciate your guidance on this.

Thank you!

Thanks, and best regards,

**Nikki Rigl, Esq.**

Manager, Maritime Environmental Policies & Procedures | Carnival Corporation & plc | 3655 N.W. 87<sup>th</sup> Avenue Miami, Florida 33178 | p: 305-599-2600 x18010 | c: 305-798-5799 | [nrigl@carnival.com](mailto:nrigl@carnival.com)

**To:** Brooks, Phillip[Brooks.Phillip@epa.gov]  
**Cc:** Bodine, Susan[bodine.susan@epa.gov]; Kelley, Rosemarie[Kelley.Rosemarie@epa.gov]; Starfield, Lawrence[Starfield.Lawrence@epa.gov]  
**From:** Irving, John[/O=EXCHANGELABS/OU=EXCHANGE ADMINISTRATIVE GROUP (FYDIBOHF23SPDLT)/CN=RECIPIENTS/CN=A45F241B1CE44B8D9C5EA6FC90925313-IRVING, JOH]  
**Sent:** Fri 4/3/2020 1:45:44 PM (UTC)  
**Subject:** FW: MM2A Rulemaking: briefing paper on one remaining issue needing decision  
MM2A.FE.OAR3.24.20.docx

Hi, Phill.

## Ex. 5 Deliberative Process (DP)

Can you please take a look and give us your thoughts?

-- John

John S. Irving  
Deputy Assistant Administrator  
U.S. Environmental Protection Agency  
Office of Enforcement & Compliance Assurance  
Office: (202) 564-2496 / Mobile: Ex. 6 Personal Privacy (PP)

---

**From:** Bodine, Susan <bodine.susan@epa.gov>  
**Sent:** Thursday, April 2, 2020 4:21 PM  
**To:** Leopold, Matt (OGC) <Leopold.Matt@epa.gov>; Rakosnik, Delaney <rakosnik.delaney@epa.gov>; Idsal, Anne <idsal.anne@epa.gov>; Harlow, David <harlow.david@epa.gov>; Irving, John <Irving.John@epa.gov>  
**Cc:** Campbell, Ann <Campbell.Ann@epa.gov>; Gustafson, Adam <Gustafson.Adam@epa.gov>  
**Subject:** RE: MM2A Rulemaking: briefing paper on one remaining issue needing decision

Looping in John.

---

**From:** Leopold, Matt (OGC) <Leopold.Matt@epa.gov>  
**Sent:** Thursday, April 2, 2020 2:57 PM  
**To:** Rakosnik, Delaney <rakosnik.delaney@epa.gov>; Idsal, Anne <idsal.anne@epa.gov>; Harlow, David <harlow.david@epa.gov>; Bodine, Susan <bodine.susan@epa.gov>  
**Cc:** Campbell, Ann <Campbell.Ann@epa.gov>; Gustafson, Adam <Gustafson.Adam@epa.gov>  
**Subject:** RE: MM2A Rulemaking: briefing paper on one remaining issue needing decision

Thanks. Looping in Adam.

**Matthew Z. Leopold**  
General Counsel  
U.S. Environmental Protection Agency  
Office: (202) 564-8040  
Cell: Ex. 6 Personal Privacy (PP)

---

**From:** Rakosnik, Delaney <rakosnik.delaney@epa.gov>  
**Sent:** Thursday, April 2, 2020 12:46 PM  
**To:** Idsal, Anne <idsal.anne@epa.gov>; Harlow, David <harlow.david@epa.gov>; Bodine, Susan <bodine.susan@epa.gov>; Leopold, Matt (OGC) <Leopold.Matt@epa.gov>  
**Cc:** Campbell, Ann <Campbell.Ann@epa.gov>  
**Subject:** RE: MM2A Rulemaking: briefing paper on one remaining issue needing decision

Thanks, Anne. Will do. You'll see something soon.

Many thanks,

Delaney Rakosnik  
Staff Assistant  
Immediate Office of the Assistant Administrator  
Office of Air and Radiation, USEPA  
Room 5406A, 1200 Pennsylvania Avenue NW  
Washington, DC 20460  
Voice: 202-564-0935  
Email: [rakosnik.delaney@epa.gov](mailto:rakosnik.delaney@epa.gov)

---

**From:** Idsal, Anne <[idsal.anne@epa.gov](mailto:idsal.anne@epa.gov)>  
**Sent:** Thursday, April 2, 2020 12:28 PM  
**To:** Harlow, David <[harlow.david@epa.gov](mailto:harlow.david@epa.gov)>; Bodine, Susan <[bodine.susan@epa.gov](mailto:bodine.susan@epa.gov)>; Leopold, Matt (OGC) <[Leopold.Matt@epa.gov](mailto:Leopold.Matt@epa.gov)>  
**Cc:** Campbell, Ann <[Campbell.Ann@epa.gov](mailto:Campbell.Ann@epa.gov)>; Rakosnik, Delaney <[rakosnik.delaney@epa.gov](mailto:rakosnik.delaney@epa.gov)>  
**Subject:** RE: MM2A Rulemaking: briefing paper on one remaining issue needing decision

David,

Thank you for teeing up this issue again. Delaney, would you please work with Susan and Matt's schedulers to schedule a conference call early next week?

Best,  
Anne

---

**From:** Harlow, David <[harlow.david@epa.gov](mailto:harlow.david@epa.gov)>  
**Sent:** Thursday, April 2, 2020 12:05 PM  
**To:** Idsal, Anne <[idsal.anne@epa.gov](mailto:idsal.anne@epa.gov)>; Bodine, Susan <[bodine.susan@epa.gov](mailto:bodine.susan@epa.gov)>; Leopold, Matt (OGC) <[Leopold.Matt@epa.gov](mailto:Leopold.Matt@epa.gov)>  
**Cc:** Campbell, Ann <[Campbell.Ann@epa.gov](mailto:Campbell.Ann@epa.gov)>  
**Subject:** MM2A Rulemaking: briefing paper on one remaining issue needing decision

All,

The attached briefing paper was provided to me last week by our OAQPS staff. It

## Ex. 5 Deliberative Process (DP)



## **Ex. 5 Deliberative Process (DP)**

Accordingly, if you could, in the fullness of time, direct your attention to this matter, I know that our OAQPS staff, and I, would be most appreciative.

Thank you.

David S. Harlow  
Senior Counsel  
Office of Air and Radiation, USEPA  
WJC-N Room 5409K  
1200 Pennsylvania Avenue NW  
Washington, DC 20460  
202-564-1233  
[Harlow.David@epa.gov](mailto:Harlow.David@epa.gov)

**To:** Holmes, Carol[Holmes.Carol@epa.gov]; Kelley, Rosemarie[Kelley.Rosemarie@epa.gov]; Bodine, Susan[bodine.susan@epa.gov]  
**Cc:** Koslow, Karin[Koslow.Karin@epa.gov]; Irving, John[Irving.John@epa.gov]; Johnson, Kathleen[Johnson.Kathleen@epa.gov]; Porter, Amy[Porter.Amy@epa.gov]; Fogarty, Johnpc[Fogarty.Johnpc@epa.gov]  
**From:** Starfield, Lawrence[/O=EXCHANGELABS/OU=EXCHANGE ADMINISTRATIVE GROUP (FYDIBOHF23SPDLT)/CN=RECIPIENTS/CN=8A89D6CD217D4254A5879ABECB3F314E-STARFIELD, LAWRENCE]  
**Sent:** Mon 4/6/2020 5:05:38 PM (UTC)  
**Subject:** RE: EPA enforcement memorandum

Agree on all points.

**From:** Holmes, Carol <Holmes.Carol@epa.gov>  
**Sent:** Monday, April 06, 2020 12:54 PM  
**To:** Starfield, Lawrence <Starfield.Lawrence@epa.gov>; Kelley, Rosemarie <Kelley.Rosemarie@epa.gov>; Bodine, Susan <bodine.susan@epa.gov>  
**Cc:** Koslow, Karin <Koslow.Karin@epa.gov>; Irving, John <Irving.John@epa.gov>; Johnson, Kathleen <Johnson.Kathleen@epa.gov>; Porter, Amy <Porter.Amy@epa.gov>; Fogarty, Johnpc <Fogarty.Johnpc@epa.gov>  
**Subject:** RE: EPA enforcement memorandum

Hi Larry –

Ex. 5 AC / DP / Ex. 7(A)

Ex. 5 AC / DP / Ex. 7(A)

Thanks!

May contain sensitive communication for internal deliberations only, attorney-client communication, attorney work product, and/or enforcement sensitive information. Do not distribute outside the U.S. Government.

Carol S. Holmes  
Senior Counsel  
Crosscutting Policy Staff  
Office of Civil Enforcement (MC 2241A)  
U.S. Environmental Protection Agency  
1200 Pennsylvania Ave, NW  
Washington, DC 20460  
Phone (202) 564-8709

**From:** Starfield, Lawrence <Starfield.Lawrence@epa.gov>  
**Sent:** Monday, April 6, 2020 12:39 PM  
**To:** Kelley, Rosemarie <Kelley.Rosemarie@epa.gov>; Bodine, Susan <bodine.susan@epa.gov>  
**Cc:** Koslow, Karin <Koslow.Karin@epa.gov>; Holmes, Carol <Holmes.Carol@epa.gov>; Irving, John <Irving.John@epa.gov>; Johnson, Kathleen <Johnson.Kathleen@epa.gov>; Porter, Amy <Porter.Amy@epa.gov>  
**Subject:** RE: EPA enforcement memorandum

Rosemarie,

I agree.

Ex. 5 AC / DP / Ex. 7(A)

Ex. 5 AC / DP / Ex. 7(A)

**Ex. 5 AC / DP / Ex. 7(A)**

Larry

This message is CONFIDENTIAL, and may contain legally privileged information. If you are not the intended recipient, or believe you received this communication in error, please delete it immediately, do not copy, and notify the sender. Thank you.

**From:** Kelley, Rosemarie <[Kelley.Rosemarie@epa.gov](mailto:Kelley.Rosemarie@epa.gov)>

**Sent:** Monday, April 06, 2020 12:23 PM

**To:** Starfield, Lawrence <[Starfield.Lawrence@epa.gov](mailto:Starfield.Lawrence@epa.gov)>; Bodine, Susan <[bodine.susan@epa.gov](mailto:bodine.susan@epa.gov)>

**Cc:** Koslow, Karin <[Koslow.Karin@epa.gov](mailto:Koslow.Karin@epa.gov)>; Holmes, Carol <[Holmes.Carol@epa.gov](mailto:Holmes.Carol@epa.gov)>; Irving, John <[Irving.John@epa.gov](mailto:Irving.John@epa.gov)>;

Johnson, Kathleen <[Johnson.Kathleen@epa.gov](mailto:Johnson.Kathleen@epa.gov)>; Porter, Amy <[Porter.Amy@epa.gov](mailto:Porter.Amy@epa.gov)>

**Subject:** RE: EPA enforcement memorandum

Larry—

**Ex. 5 AC / DP / Ex. 7(A)**

Rosemarie

**From:** Starfield, Lawrence <[Starfield.Lawrence@epa.gov](mailto:Starfield.Lawrence@epa.gov)>

**Sent:** Monday, April 06, 2020 11:43 AM

**To:** Bodine, Susan <[bodine.susan@epa.gov](mailto:bodine.susan@epa.gov)>

**Cc:** Kelley, Rosemarie <[Kelley.Rosemarie@epa.gov](mailto:Kelley.Rosemarie@epa.gov)>; Koslow, Karin <[Koslow.Karin@epa.gov](mailto:Koslow.Karin@epa.gov)>; Holmes, Carol <[Holmes.Carol@epa.gov](mailto:Holmes.Carol@epa.gov)>; Irving, John <[Irving.John@epa.gov](mailto:Irving.John@epa.gov)>; Johnson, Kathleen <[Johnson.Kathleen@epa.gov](mailto:Johnson.Kathleen@epa.gov)>

**Subject:** RE: EPA enforcement memorandum

Susan,

For the call today at 4 pm on the policy, several points.

**Ex. 5 AC / DP / Ex. 7(A)**

Larry

This message is CONFIDENTIAL, and may contain legally privileged information. If you are not the intended recipient, or believe you received this communication in error, please delete it immediately, do not copy, and notify the sender. Thank you.

**From:** Starfield, Lawrence  
**Sent:** Friday, April 03, 2020 8:08 AM  
**To:** Bodine, Susan <[bodine.susan@epa.gov](mailto:bodine.susan@epa.gov)>  
**Cc:** Irving, John <[Irving.John@epa.gov](mailto:Irving.John@epa.gov)>; Kelley, Rosemarie <[Kelley.Rosemarie@epa.gov](mailto:Kelley.Rosemarie@epa.gov)>; Koslow, Karin <[Koslow.Karin@epa.gov](mailto:Koslow.Karin@epa.gov)>; Johnson, Kathleen <[Johnson.Kathleen@epa.gov](mailto:Johnson.Kathleen@epa.gov)>  
**Subject:** Fwd: EPA enforcement memorandum

Susan,

OGC has added the rulemaking petition to their portion of Monday's call with DOJ. We'll plan to sit in on that.

Larry

Sent from my iPhone

Begin forwarded message:

**From:** "Lipshultz, Jon (ENRD)" <[Jon.Lipshultz@usdoj.gov](mailto:Jon.Lipshultz@usdoj.gov)>  
**Date:** April 3, 2020 at 6:21:13 AM EDT  
**To:** "Payne, James" <[payne.james@epa.gov](mailto:payne.james@epa.gov)>  
**Cc:** "Mariani, Tom (ENRD)" <[Tom.Mariani@usdoj.gov](mailto:Tom.Mariani@usdoj.gov)>, "Starfield, Lawrence" <[Starfield.Lawrence@epa.gov](mailto:Starfield.Lawrence@epa.gov)>, "Simons, Andrew" <[Simons.Andrew@epa.gov](mailto:Simons.Andrew@epa.gov)>, "Packard, Elise" <[Packard.Elise@epa.gov](mailto:Packard.Elise@epa.gov)>, "Fotouhi, David" <[Fotouhi.David@epa.gov](mailto:Fotouhi.David@epa.gov)>  
**Subject: Re: EPA enforcement memorandum**

Will do. Thanks Jim.

Sent from my iPhone

On Apr 2, 2020, at 9:30 PM, Payne, James <[payne.james@epa.gov](mailto:payne.james@epa.gov)> wrote:

Thanks Jack. Pls add this topic to agenda for this Mon weekly ENRD/OGC call, along with virus updates.

Sent from my iPhone

On Apr 2, 2020, at 1:50 PM, Lipshultz, Jon (ENRD) <[Jon.Lipshultz@usdoj.gov](mailto:Jon.Lipshultz@usdoj.gov)> wrote:

Thanks Jim. We had seen this but the highlights below are helpful. Please let me know if you would like to discuss. Jack

Sent from my iPhone

On Apr 2, 2020, at 1:37 PM, Payne, James <[payne.james@epa.gov](mailto:payne.james@epa.gov)> wrote:

Hi Jack. Sharing to ensure awareness of NRDC's 4/1/2020 Petition for Emergency Rulemaking concerning EPA's 3/26/2020 Enforcement Memorandum, relating to current virus conditions. Jim Ex. 6 Personal Privacy (PP) new cell

---

**From:** Payne, James  
**Sent:** Thursday, April 2, 2020 1:22 PM  
**To:** OGC HQ ADDs <[OGC\\_HQ\\_ADDs@epa.gov](mailto:OGC_HQ_ADDs@epa.gov)>; OGC RCs and DRCs <[OGC\\_RCs\\_and\\_DRCs@epa.gov](mailto:OGC_RCs_and_DRCs@epa.gov)>

**Subject:** EPA enforcement memorandum

Sharing to ensure awareness. KC mentioned it on ORC/OGC video meet this am. Jim Ex. 6 Personal Privacy (PP) new cell

1. EPA Enforcement Memorandum, March 26, 2020

<https://www.epa.gov/sites/production/files/2020-03/documents/oecamemooncovid19implications.pdf>

2. Petition for Emergency Rulemaking, by NRDC et al, April 1, 2020

<https://www.nrdc.org/sites/default/files/petition-emergency-rulemaking-20200401.pdf>

**Ex. 5 AC / DP / Ex. 7(A)**

**Cc:** Holmes, Carol[Holmes.Carol@epa.gov]; Fogarty, Johnpc[Fogarty.Johnpc@epa.gov]  
**To:** Starfield, Lawrence[Starfield.Lawrence@epa.gov]; Irving, John[Irving.John@epa.gov]  
**From:** bodine.susan@epa.gov[bodine.susan@epa.gov]  
**Sent:** Wed 6/10/2020 10:43:20 PM (UTC)  
**Subject:** Fwd: Addendum to EPA's Temporary Enforcement Policy

It was a by the way conversation during a call on another subject.  
See below. He will not press the comment.

Sent from my iPad

Begin forwarded message:

**From:** "Fotouhi, David" <Fotouhi.David@epa.gov>  
**Date:** June 10, 2020 at 6:34:04 PM EDT  
**To:** "Bodine, Susan" <bodine.susan@epa.gov>  
**Cc:** "Leopold, Matt (OGC)" <Leopold.Matt@epa.gov>  
**Subject:** RE: Addendum to EPA's Temporary Enforcement Policy

PRIVILEGED—DELIBERATIVE

# Ex. 5 Deliberative Process (DP)

Best,

David

**David Fotouhi**

Principal Deputy General Counsel  
Office of General Counsel  
U.S. Environmental Protection Agency  
Tel: +1 202.564.1976  
[fotouhi.david@epa.gov](mailto:fotouhi.david@epa.gov)

**From:** Bodine, Susan <bodine.susan@epa.gov>  
**Sent:** Wednesday, June 10, 2020 6:07 PM  
**To:** Leopold, Matt (OGC) <Leopold.Matt@epa.gov>; Fotouhi, David <Fotouhi.David@epa.gov>  
**Subject:** FW: Addendum to EPA's Temporary Enforcement Policy

# Ex. 5 Deliberative Process (DP)

# Ex. 5 Deliberative Process (DP)

**From:** Bodine, Susan

**Sent:** Tuesday, June 9, 2020 3:06 PM

**To:** 'Jones, Danielle Y. EOP/OMB' <Danielle\_Y\_Jones@omb.eop.gov>

**Cc:** Hirsch, Quinn N. EOP/OMB <Quinn.N.Hirsch@omb.eop.gov>; Joyce, Shannon M. EOP/OMB <Shannon\_M\_Joyce@omb.eop.gov>; Hewitt, James <Hewitt.James@epa.gov>; Hull, George <Hull.George@epa.gov>; Shiffman, Cari <Shiffman.Cari@epa.gov>; Starfield, Lawrence <Starfield.Lawrence@epa.gov>; Irving, John <Irving.John@epa.gov>

**Subject:** Addendum to EPA's Temporary Enforcement Policy

Danielle,

Attached is a draft addendum to EPA's Temporary COVID-19 Enforcement Policy, adding a termination date of August 1, 2020.

When cleared, this will be posted here:

><https://www.epa.gov/enforcement/covid-19-enforcement-and-compliance-resources><

Susan

Susan Parker Bodine  
Assistant Administrator  
Office of Enforcement and Compliance Assurance  
202-564-2440

**To:** Bodine, Susan[bodine.susan@epa.gov]  
**From:** Johnson, Kathleen[/O=EXCHANGELABS/OU=EXCHANGE ADMINISTRATIVE GROUP (FYDIBOHF23SPDLT)/CN=RECIPIENTS/CN=D36DE0CD8EE14FF6A6AA2F1DF9B159F6-KJOHNS05]  
**Sent:** Wed 4/8/2020 5:52:36 PM (UTC)  
**Subject:** RE: Renovator Certification missed during COVID-19 pandemic

OK thanks.

Kathleen H. Johnson  
Senior Policy Advisor  
Office of Enforcement and Compliance Assurance  
Cell phone 415-640-5476  
Johnson.kathleen@epa.gov

---

**From:** Bodine, Susan <bodine.susan@epa.gov>  
**Sent:** Wednesday, April 8, 2020 1:25 PM  
**To:** Johnson, Kathleen <Johnson.Kathleen@epa.gov>  
**Subject:** FW: Renovator Certification missed during COVID-19 pandemic  
**Importance:** High

For the Tiger Team

---

**From:** Megan Jacobs <mjacobs@servpro9766.com>  
**Sent:** Wednesday, April 8, 2020 1:14 PM  
**To:** Bodine, Susan <bodine.susan@epa.gov>  
**Cc:** Kate Yeager <kyeager@servpro9766.com>  
**Subject:** FW: Renovator Certification missed during COVID-19 pandemic  
**Importance:** High

Susan,

Can you provide more direction on completing recertification for Lead Safety for Renovation, Repair, and Painting? In summary, our franchise owner's certification expired last Thursday (4/2) and I need advice on how to get this certification completed again. Is he allowed to take the 4 hour refresher course even though his current certificate is expired? Does he have to retake the 8 hour course? If so, with the current times, it would be challenging to get this completed.

Our corporate office requires each owner to be certified in Lead Safety for Renovation, Repair, and Painting in order to receive National Account work for 100's of insurance companies. This is 90% of our work. Our corporate office has gave us an extension on our corporate end, however; we have until the end of May to get it accomplished.

Can you please advise me on what to do? It's very hard since this Pandemic has taken over our country. There are a lot of unknowns during these times as when places will be open, etc.

Please let me know how to handle.

Thank you,

**Megan Jacobs**

**Marketing Manager**

SERVPRO of Farmington

SERVPRO of Southern and Central Jefferson County

3916 Highway 221 | P.O. Box 538 | Farmington, MO 63640

Farmington Office: 573-756-5191 | Jefferson County Office: 636-467-5444

Cell: 573-482-5054 | mjacobs@servpro9766.com





*Together, we can make it "Like it never even happened."*

---

**From:** McIntyre, Crystal <McIntyre.Crystal@epa.gov>  
**Sent:** Wednesday, April 8, 2020 9:28 AM  
**To:** Megan Jacobs <mjacobs@servpro9766.com>  
**Subject:** Renovator Certification missed during COVID-19 pandemic

As discussed, here is information from the EPA Headquarters' office to address concerns for Renovators, etc. during the COVID-19 pandemic.

<https://www.epa.gov/sites/production/files/2020-03/documents/oecamemooncovid19implications.pdf>

***Relevant excerpt from this memo/temporary policy:***

*Many training classes are offered on-line and such on-line training generally should not be affected by travel and social distancing constraints. If practicable, sectors mandated to function with certified operators should maintain normal certification and training practices. If not practicable due to the COVID-19 pandemic, the EPA believes that it is more important to keep experienced, trained operators on the job, even if a training or certification is missed.*

If work is conducted during this time, please document that the COVID-19 pandemic/inability to take a course for renewal was the reason for working without a current certification.

Crystal McIntyre  
Regional Lead-Based Paint Program Coordinator  
U.S. Environmental Protection Agency, Region 7  
800-223-0425

**OECA – Current Issues**  
Briefing Materials for Chief of Staff Mandy Gunasekara  
March 30, 2020

1.

# Ex. 7(E)

2. COVID-19 – New public enforcement guidance (Ex. 2)

- Accommodations for routine monitoring and reporting obligations affected by COVID-19
- Maintaining compliance in areas critical to public health and the environment
- No exceptions for intentional criminal conduct

3. COVID-19 – Fuel waivers (Ex. 3)

- Issued 03/27/2020.
- Temporary waiver of summer fuel standards to minimize or prevent the disruption of an adequate fuel supply of gasoline throughout the United States.
- Facilitates the turnover of storage tanks from winter to summer gasoline.
- Effective through May 20, 2020.

4. COVID-19 – Participation in DOJ enforcement task force targeting fraud

- EPA CID and the Office of Civil Enforcement are actively participating in a COVID-19 task force that is being coordinated by DOJ's Environmental Crimes Section.
  - DOJ's COVID Fraud website: <https://www.justice.gov/coronavirus>
- Other federal law enforcement partners include FDA, HHS, USPS, and CBP.
- DOJ recently brought a civil case involving COVID-19 fraud:  
<https://www.justice.gov/opa/pr/justice-department-files-its-first-enforcement-action-against-covid-19-fraud>
- One focus for EPA is the sale of disinfectants fraudulently claiming to be effective against COVID-19 (FIFRA violations).

5. Key briefing materials for the Administrator for House/Senate hearings

[\* Please let us know if you don't already have these and would like them.]

- Enforcement Activity Results
- PFAS Enforcement Activity
- Criminal Enforcement – Case Statistics
- Criminal Enforcement – Number of CID Agents
- Drinking Water Enforcement – Hillview Case
- FY 2020 OECA Enforcement and Compliance Program Budget
- Vehicle and Engine Enforcement
- Compliance Monitoring Activities
- Lead Enforcement Activity
- RFS Enforcement
- FY 2020 – FY 2023 National Compliance Initiatives
- Using Superfund Enforcement Tools to Promote Cleanup and Redevelopment

- Supplemental Environment Projects (SEPs) and Local Governments
  - Water Enforcement – Municipal Consent Decree Modifications
  - NYT Articles About an “Enforcement Slowdown” at EPA
  - Import Enforcement
6. FY-2019 Year in Review (Ex. 4)
    - EPA-wide publication
  7. FY 2019 Enforcement and Compliance Annual Results (Ex. 5)
    - OECA-specific annual results
  8. Cases

**Ex. 7(A)**

9. DOJ Issues

**Ex. 7(E)**

**Ex. 7(E)**

**To:** Bodine, Susan[bodine.susan@epa.gov]  
**From:** Starfield, Lawrence[/O=EXCHANGELABS/OU=EXCHANGE ADMINISTRATIVE GROUP (FYDIBOHF23SPDLT)/CN=RECIPIENTS/CN=8A89D6CD217D4254A5879ABECB3F314E-STARFIELD, LAWRENCE]  
**Sent:** Sat 3/28/2020 4:47:20 PM (UTC)  
**Subject:** Re: OECA response FW: Additional Chad points

I think it looks very good. Nothing to add.

Sent from my iPhone

On Mar 28, 2020, at 12:15 PM, Bodine, Susan <bodine.susan@epa.gov> wrote:

Thanks,  
Any other input?

# Ex. 5 Deliberative Process (DP)

Susan

---

**From:** Johnson, Kathleen <Johnson.Kathleen@epa.gov>  
**Sent:** Friday, March 27, 2020 8:46 PM  
**To:** Kelley, Rosemarie <Kelley.Rosemarie@epa.gov>; Bodine, Susan <bodine.susan@epa.gov>; Starfield, Lawrence <Starfield.Lawrence@epa.gov>; Irving, John <Irving.John@epa.gov>; Hindin, David <Hindin.David@epa.gov>  
**Cc:** Shiffman, Cari <Shiffman.Cari@epa.gov>; Mirza, Sabah <Mirza.Sabah@epa.gov>; Tran, Victoria <tran.victoria@epa.gov>  
**Subject:** RE: OECA response FW: Additional Chad points

Adding a couple of minor edits.

Kathleen H. Johnson  
Senior Policy Advisor  
Office of Enforcement and Compliance Assurance  
Cell phone 415-640-5476  
[Johnson.kathleen@epa.gov](mailto:Johnson.kathleen@epa.gov)

---

**From:** Kelley, Rosemarie <Kelley.Rosemarie@epa.gov>  
**Sent:** Friday, March 27, 2020 6:49 PM  
**To:** Bodine, Susan <bodine.susan@epa.gov>; Starfield, Lawrence <Starfield.Lawrence@epa.gov>; Irving, John <Irving.John@epa.gov>; Hindin, David <Hindin.David@epa.gov>; Johnson, Kathleen <Johnson.Kathleen@epa.gov>  
**Cc:** Shiffman, Cari <Shiffman.Cari@epa.gov>; Mirza, Sabah <Mirza.Sabah@epa.gov>; Tran, Victoria <tran.victoria@epa.gov>  
**Subject:** RE: OECA response FW: Additional Chad points

Susan—

I have one suggested wording change and caught one typo.

Rosemarie

---

**From:** Bodine, Susan <bodine.susan@epa.gov>  
**Sent:** Friday, March 27, 2020 6:25 PM  
**To:** Starfield, Lawrence <Starfield.Lawrence@epa.gov>; Irving, John <Irving.John@epa.gov>; Kelley, Rosemarie <Kelley.Rosemarie@epa.gov>; Hindin, David <Hindin.David@epa.gov>; Johnson, Kathleen <Johnson.Kathleen@epa.gov>

**Cc:** Shiffman, Cari <[Shiffman.Cari@epa.gov](mailto:Shiffman.Cari@epa.gov)>; Mirza, Sabah <[Mirza.Sabah@epa.gov](mailto:Mirza.Sabah@epa.gov)>; Tran, Victoria <[tran.victoria@epa.gov](mailto:tran.victoria@epa.gov)>

**Subject:** FW: OECA response FW: Additional Chad points

See attached my edits to Chad's message.

Comments welcome. He would like to get this out ASAP but understands that probably means Monday.

Susan

---

**From:** McIntosh, Chad <[mcintosh.chad@epa.gov](mailto:mcintosh.chad@epa.gov)>

**Sent:** Friday, March 27, 2020 5:43 PM

**To:** Bodine, Susan <[bodine.susan@epa.gov](mailto:bodine.susan@epa.gov)>

**Cc:** Mason, Scott <[Mason.Scott@epa.gov](mailto:Mason.Scott@epa.gov)>

**Subject:** FW: OECA response FW: Additional Chad points

Susan, Let us know your comments.

Thanks Chad

W.C. McIntosh  
Assistant Administrator  
International and Tribal Affairs  
United States Environmental Protection Agency  
202-564-6600

## Ex. 5 Deliberative Process (DP)

---

**From:** Wright, Felicia <[Wright.Felicia@epa.gov](mailto:Wright.Felicia@epa.gov)>  
**Sent:** Friday, March 27, 2020 4:21 PM  
**To:** Lieberman, Paige <[Lieberman.Paige@epa.gov](mailto:Lieberman.Paige@epa.gov)>  
**Cc:** Byrne, Andrew <[Byrne.Andrew@epa.gov](mailto:Byrne.Andrew@epa.gov)>  
**Subject:** OECA response FW: Additional Chad points  
**Importance:** High

Paige  
A few addendums:

## Ex. 5 Deliberative Process (DP)

# Ex. 5 Deliberative Process (DP)

And....see below.

Thanks,  
Felicia

---

**From:** Mason, Scott  
**Sent:** Friday, March 27, 2020 4:17 PM  
**To:** Wright, Felicia <[Wright.Felicia@epa.gov](mailto:Wright.Felicia@epa.gov)>  
**Subject:** Fwd:

Sent from my iPhone  
Begin forwarded message:

**From:** "McIntosh, Chad" <[mcintosh.chad@epa.gov](mailto:mcintosh.chad@epa.gov)>  
**Date:** March 27, 2020 at 3:08:37 PM CDT  
**To:** "Mason, Scott" <[Mason.Scott@epa.gov](mailto:Mason.Scott@epa.gov)>

Response points

# Ex. 5 Deliberative Process (DP)

W.C. McIntosh  
Assistant Administrator  
International and Tribal Affairs  
United States Environmental Protection Agency  
202-564-6600

<response to NTCs and RTOCs rak +KJrev.docx>

**To:** Kelley, Rosemarie[Kelley.Rosemarie@epa.gov]; Bodine, Susan[bodine.susan@epa.gov]; Starfield, Lawrence[Starfield.Lawrence@epa.gov]; Irving, John[Irving.John@epa.gov]; Hindin, David[Hindin.David@epa.gov]  
**Cc:** Shiffman, Cari[Shiffman.Cari@epa.gov]; Mirza, Sabah[Mirza.Sabah@epa.gov]; Tran, Victoria[tran.victoria@epa.gov]  
**From:** Johnson, Kathleen[/O=EXCHANGELABS/OU=EXCHANGE ADMINISTRATIVE GROUP (FYDIBOHF23SPDLT)/CN=RECIPIENTS/CN=D36DE0CD8EE14FF6A6AA2F1DF9B159F6-KJOHNS05]  
**Sent:** Sat 3/28/2020 12:45:31 AM (UTC)  
**Subject:** RE: OECA response FW: Additional Chad points  
response to NTCs and RTOCs rak +KJrev.docx

Adding a couple of minor edits.

Kathleen H. Johnson  
Senior Policy Advisor  
Office of Enforcement and Compliance Assurance  
Cell phone: Ex. 6 Personal Privacy (PP)  
Johnson.kathleen@epa.gov

---

**From:** Kelley, Rosemarie <Kelley.Rosemarie@epa.gov>  
**Sent:** Friday, March 27, 2020 6:49 PM  
**To:** Bodine, Susan <bodine.susan@epa.gov>; Starfield, Lawrence <Starfield.Lawrence@epa.gov>; Irving, John <Irving.John@epa.gov>; Hindin, David <Hindin.David@epa.gov>; Johnson, Kathleen <Johnson.Kathleen@epa.gov>  
**Cc:** Shiffman, Cari <Shiffman.Cari@epa.gov>; Mirza, Sabah <Mirza.Sabah@epa.gov>; Tran, Victoria <tran.victoria@epa.gov>  
**Subject:** RE: OECA response FW: Additional Chad points

Susan—

I have one suggested wording change and caught one typo.

Rosemarie

---

**From:** Bodine, Susan <bodine.susan@epa.gov>  
**Sent:** Friday, March 27, 2020 6:25 PM  
**To:** Starfield, Lawrence <Starfield.Lawrence@epa.gov>; Irving, John <Irving.John@epa.gov>; Kelley, Rosemarie <Kelley.Rosemarie@epa.gov>; Hindin, David <Hindin.David@epa.gov>; Johnson, Kathleen <Johnson.Kathleen@epa.gov>  
**Cc:** Shiffman, Cari <Shiffman.Cari@epa.gov>; Mirza, Sabah <Mirza.Sabah@epa.gov>; Tran, Victoria <tran.victoria@epa.gov>  
**Subject:** FW: OECA response FW: Additional Chad points

See attached my edits to Chad’s message.

Comments welcome. He would like to get this out ASAP but understands that probably means Monday.

Susan

---

**From:** McIntosh, Chad <mcintosh.chad@epa.gov>  
**Sent:** Friday, March 27, 2020 5:43 PM  
**To:** Bodine, Susan <bodine.susan@epa.gov>  
**Cc:** Mason, Scott <Mason.Scott@epa.gov>  
**Subject:** FW: OECA response FW: Additional Chad points

Susan, Let us know your comments.

Thanks Chad

W.C. McIntosh  
Assistant Administrator  
International and Tribal Affairs  
United States Environmental Protection Agency  
202-564-6600



# Ex. 5 Deliberative Process (DP)

---

**From:** Wright, Felicia <[Wright.Felicia@epa.gov](mailto:Wright.Felicia@epa.gov)>  
**Sent:** Friday, March 27, 2020 4:21 PM  
**To:** Lieberman, Paige <[Lieberman.Paige@epa.gov](mailto:Lieberman.Paige@epa.gov)>  
**Cc:** Byrne, Andrew <[Byrne.Andrew@epa.gov](mailto:Byrne.Andrew@epa.gov)>  
**Subject:** OECA response FW: Additional Chad points  
**Importance:** High

Paige  
A few addendums:

## Ex. 5 Deliberative Process (DP)

And....see below.

Thanks,  
Felicia

---

**From:** Mason, Scott  
**Sent:** Friday, March 27, 2020 4:17 PM  
**To:** Wright, Felicia <[Wright.Felicia@epa.gov](mailto:Wright.Felicia@epa.gov)>  
**Subject:** Fwd:

Sent from my iPhone  
Begin forwarded message:

**From:** "McIntosh, Chad" <[mcintosh.chad@epa.gov](mailto:mcintosh.chad@epa.gov)>  
**Date:** March 27, 2020 at 3:08:37 PM CDT  
**To:** "Mason, Scott" <[Mason.Scott@epa.gov](mailto:Mason.Scott@epa.gov)>

Response points

## Ex. 5 Deliberative Process (DP)

W.C. McIntosh  
Assistant Administrator  
International and Tribal Affairs  
United States Environmental Protection Agency  
202-564-6600

**Cc:** Kramer, Jessica L.[kramer.jessical@epa.gov]; Forsgren, Lee[Forsgren.Lee@epa.gov]  
**To:** Ross, David P[ross.davidp@epa.gov]  
**From:** bodine.susan@epa.gov[bodine.susan@epa.gov]  
**Sent:** Wed 4/15/2020 12:28:54 AM (UTC)  
**Subject:** Re: DRAFT COVID-19 message DELIBERATIVE ENFORCEMENT CONFIDENTIAL

Thanks

Sent from my iPhone

On Apr 14, 2020, at 8:04 PM, Ross, David P <ross.davidp@epa.gov> wrote:

Thanks Susan. I'm looking at this, with Jess' help

**Ex. 5 Deliberative Process (DP)**

**Ex. 5 Deliberative Process (DP)**

Sent from my iPad

On Apr 14, 2020, at 3:42 PM, Bodine, Susan <bodine.susan@epa.gov> wrote:

**Ex. 5 Deliberative Process (DP)**

# Ex. 5 Deliberative Process (DP)

**From:** Bodine, Susan  
**Sent:** Monday, March 23, 2020 6:16 PM  
**To:** Ross, David P <ross.davidp@epa.gov>  
**Subject:** RE: DRAFT COVID-19 message DELIBERATIVE ENFORCEMENT CONFIDENTIAL

## Ex. 5 Deliberative Process (DP)

**From:** Ross, David P <ross.davidp@epa.gov>  
**Sent:** Monday, March 23, 2020 6:14 PM  
**To:** Bodine, Susan <bodine.susan@epa.gov>  
**Subject:** Re: DRAFT COVID-19 message DELIBERATIVE ENFORCEMENT CONFIDENTIAL

## Ex. 5 Deliberative Process (DP)

Sent from my iPhone  
<FINAL DRAFT COVID-19 Implications for EPA's Enforcement and Compliance Assurance Program (DRAFT - DO NOT RELEASE - DELIBERATIVE - ENFORCEMENT CONFIDENTIAL).pdf>  
<OW-OECA COVID19 Flexibilities and Priorities 4-13-2020OWresponsetoOECA.docx>

**To:** Bodine, Susan[bodine.susan@epa.gov]; Leopold, Matt (OGC)[Leopold.Matt@epa.gov]  
**Cc:** Benevento, Douglas[benevento.douglas@epa.gov]; Gunasekara, Mandy[gunasekara.Mandy@epa.gov]; Bolen, Brittany[bolen.brittany@epa.gov]; Brazauskas, Joseph[brazauskas.joseph@epa.gov]; Schiermeyer, Corry[schiermeyer.corry@epa.gov]; Wildeman, Anna[wildeman.anna@epa.gov]; Bertrand, Charlotte[Bertrand.Charlotte@epa.gov]; Forsgren, Lee[Forsgren.Lee@epa.gov]; Kramer, Jessica L.[kramer.jessical@epa.gov]; McDonough, Owen[mcdonough.owen@epa.gov]; McLain, Jennifer L.[McLain.Jennifer@epa.gov]; Sawyers, Andrew[Sawyers.Andrew@epa.gov]; Nagle, Deborah[Nagle.Deborah@epa.gov]; Goodin, John[Goodin.John@epa.gov]; Best-Wong, Benita[Best-Wong.Benita@epa.gov]; Risley, David[Risley.David@epa.gov]; Mejias, Melissa[mejias.melissa@epa.gov]; Aguirre, Janita[Aguirre.Janita@epa.gov]; Fotouhi, David[Fotouhi.David@epa.gov]  
**From:** Ross, David P[/O=EXCHANGELABS/OU=EXCHANGE ADMINISTRATIVE GROUP (FYDIBOHF23SPDLT)/CN=RECIPIENTS/CN=119CD8B52DD14305A84863124AD6D8A6-ROSS, DAVID]  
**Sent:** Thur 4/9/2020 11:06:15 PM (UTC)  
**Subject:** OW-OECA COVID19 Flexibilities and Priorities 4-9-2020(5).clean.docx  
[OW-OECA COVID19 Flexibilities and Priorities 4-9-2020\(5\).clean.docx](#)

Confidential/Deliberative/Draft

Susan and Matt,

# Ex. 5 Deliberative Process (DP)

Thanks to the OW, OECA and OGC teams for the help so far. We appreciate it.

Dave

**To:** Starfield, Lawrence[Starfield.Lawrence@epa.gov]; Mackey, Cyndy[Mackey.Cyndy@epa.gov]  
**Cc:** DeLeon, Rafael[Deleon.Rafael@epa.gov]; Patterson, Kenneth[Patterson.Kenneth@epa.gov]; Gardner, Monica[Gardner.Monica@epa.gov]; Ergener, Deniz[Ergener.Deniz@epa.gov]; Bodine, Susan[bodine.susan@epa.gov]; Senack, Logan[senack.logan@epa.gov]  
**From:** Leff, Karin[/O=EXCHANGELABS/OU=EXCHANGE ADMINISTRATIVE GROUP (FYDIBOHF23SPDLT)/CN=RECIPIENTS/CN=23E82B63CF414E5E94B609DA277DE6C4-KLEFF]  
**Sent:** Fri 4/10/2020 3:51:00 PM (UTC)  
**Subject:** RE: Draft OSRE-FFEO Email To Regions Regarding CERCLA & RCRA CA Responses To COVID-19 Public Health Emergency  
OSRE FFEO Email re Enforcement and COVID 19 impacts 4 9 20 LSKL edits 4-10-20.docx

Sorry, here's the attachment with FFEO responses to Larry's questions.

---

Karin Leff  
Director, Federal Facilities Enforcement Office  
MC 2261A  
U.S. Environmental Protection Agency  
1200 Pennsylvania Ave., NW  
Washington DC 20460  
202 564-7068

Ex. 6 Personal Privacy (PP)

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---

**From:** Starfield, Lawrence <Starfield.Lawrence@epa.gov>  
**Sent:** Friday, April 10, 2020 8:44 AM  
**To:** Mackey, Cyndy <Mackey.Cyndy@epa.gov>; Leff, Karin <Leff.Karin@epa.gov>  
**Cc:** DeLeon, Rafael <Deleon.Rafael@epa.gov>; Patterson, Kenneth <Patterson.Kenneth@epa.gov>; Gardner, Monica <Gardner.Monica@epa.gov>; Ergener, Deniz <Ergener.Deniz@epa.gov>; Bodine, Susan <bodine.susan@epa.gov>  
**Subject:** RE: Draft OSRE-FFEO Email To Regions Regarding CERCLA & RCRA CA Responses To COVID-19 Public Health Emergency

Cyndy and Karin,

Thanks for putting this together. Additional guidance will be helpful to the Regions. I had a couple of questions and suggestions on the proposed email (attached). Let me know what you think.

Larry

This message is CONFIDENTIAL, and may contain legally privileged information. If you are not the intended recipient, or believe you received this communication in error, please delete it immediately, do not copy, and notify the sender. Thank you.

---

**From:** Mackey, Cyndy <Mackey.Cyndy@epa.gov>  
**Sent:** Wednesday, April 08, 2020 4:29 PM  
**To:** Bodine, Susan <bodine.susan@epa.gov>; Starfield, Lawrence <Starfield.Lawrence@epa.gov>  
**Cc:** DeLeon, Rafael <Deleon.Rafael@epa.gov>; Leff, Karin <Leff.Karin@epa.gov>; Patterson, Kenneth <Patterson.Kenneth@epa.gov>; Gardner, Monica <Gardner.Monica@epa.gov>; Ergener, Deniz <Ergener.Deniz@epa.gov>  
**Subject:** Draft OSRE-FFEO Email To Regions Regarding CERCLA & RCRA CA Responses To COVID-19 Public Health Emergency

Susan & Larry

Once the OLEM-OECA Pause document is issued (today?), Karin and I plan to send out the attached email to the regions. This email provides links for the recent enforcement related documents issued regarding the COVID-19 Public Health Emergency, provides some additional information regarding documenting & preserving enforceable changes, and introduces HQ tracking of extensions. It also provides OSRE and FFEO points of contact.

Please let us know if you any questions or concerns.

*Cyndy Mackey*

Director, Office of Site Remediation Enforcement

EPA-Office of Enforcement and Compliance Assurance (Mail Code-2271A)

1200 Pennsylvania Ave., N.W. (Room-WJC 5206) Washington, DC 20460

**Ex. 6 Personal Privacy (PP)**

202 564-5110 (Office Line)

**Ex. 6 Personal Privacy (PP)**

*This email is for the intended recipient only and may contain material that is privileged and/or confidential. If you believe you have received this email in error, please notify the sender. Thank you*

**To:** Pollins, Mark[Pollins.Mark@epa.gov]  
**From:** bodine.susan@epa.gov[bodine.susan@epa.gov]  
**Sent:** Tue 4/7/2020 4:59:54 PM (UTC)  
**Subject:** Fwd: vessel discharges

Sent from my iPhone

Begin forwarded message:

**From:** "Forsgren, Lee" <Forsgren.Lee@epa.gov>  
**Date:** April 7, 2020 at 12:51:22 PM EDT  
**To:** "Bodine, Susan" <bodine.susan@epa.gov>  
**Subject:** Re: vessel discharges

Susan

# Ex. 5 Deliberative Process (DP)

Lee

Sent from my iPhone

On Apr 7, 2020, at 12:31 PM, Bodine, Susan <bodine.susan@epa.gov> wrote:

# Ex. 5 Deliberative Process (DP)



# Ex. 5 Deliberative Process (DP)

Susan Parker Bodine  
Assistant Administrator  
Office of Enforcement and Compliance Assurance  
202-564-2440

<OW-OECA COVID19 Flexibilities and Priorities 4-6-2020 +OCE spb.docx>

**To:** Bodine, Susan[bodine.susan@epa.gov]; Starfield, Lawrence[Starfield.Lawrence@epa.gov]  
**Cc:** Leopold, Matt (OGC)[Leopold.Matt@epa.gov]; Fotouhi, David[Fotouhi.David@epa.gov]; Gustafson, Adam[Gustafson.Adam@epa.gov]; Simons, Andrew[Simons.Andrew@epa.gov]  
**From:** Payne, James[/O=EXCHANGELABS/OU=EXCHANGE ADMINISTRATIVE GROUP (FYDIBOHF23SPDLT)/CN=RECIPIENTS/CN=61B3204A683041079512B122C580A569-PAYNE, JAME]  
**Sent:** Wed 5/20/2020 9:25:51 PM (UTC)  
**Subject:** FW: AA Roles in Response to Petition for Emergency Rulemaking  
[NGO emergency-rulemaking-20200401.pdf](#)

Hi Susan, Larry –

**Ex. 5 AC/AWP**

# Ex. 5 AC/AWP

Susan

---

**From:** Bodine, Susan <bodine.susan@epa.gov>  
**Sent:** Wednesday, May 20, 2020 1:32 PM  
**To:** Leopold, Matt (OGC) <Leopold.Matt@epa.gov>; Fotouhi, David <Fotouhi.David@epa.gov>  
**Cc:** Starfield, Lawrence <Starfield.Lawrence@epa.gov>; Payne, James <payne.james@epa.gov>

# Ex. 5 AC/AWP

Susan

[attachment]

**To:** Bodine, Susan[bodine.susan@epa.gov]  
**From:** Starfield, Lawrence[/O=EXCHANGELABS/OU=EXCHANGE ADMINISTRATIVE GROUP (FYDIBOHF23SPDLT)/CN=RECIPIENTS/CN=8A89D6CD217D4254A5879ABECB3F314E-STARFIELD, LAWRENCE]  
**Sent:** Wed 5/20/2020 9:18:23 PM (UTC)  
**Subject:** RE: AA Roles in Response to Petition for Emergency Rulemaking

Susan

Ex. 5 Deliberative Process (DP)

Ex. 5 Deliberative Process (DP)

**From:** Starfield, Lawrence  
**Sent:** Wednesday, May 20, 2020 5:09 PM  
**To:** Bodine Susan (bodine.susan@epa.gov) <bodine.susan@epa.gov>  
**Subject:** FW: AA Roles in Response to Petition for Emergency Rulemaking  
**Importance:** High

Susan,

Ex. 5 AC/AWP

Larry

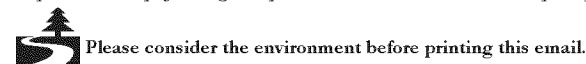
**From:** Simons, Andrew <Simons.Andrew@epa.gov>  
**Sent:** Wednesday, May 20, 2020 4:19 PM  
**To:** Payne, James <payne.james@epa.gov>; Starfield, Lawrence <Starfield.Lawrence@epa.gov>; Gustafson, Adam <Gustafson.Adam@epa.gov>  
**Cc:** Fotouhi, David <Fotouhi.David@epa.gov>  
**Subject:** RE: AA Roles in Response to Petition for Emergency Rulemaking

Larry:

Ex. 5 AC/AWP

Andrew Simons  
Acting Associate General Counsel  
Cross-Cutting Issues Law Office  
U.S. Environmental Protection Agency  
Tel. 202-564-3649  
WJC-N 7526E

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**From:** Payne, James <payne.james@epa.gov>  
**Sent:** Wednesday, May 20, 2020 3:49 PM  
**To:** Starfield, Lawrence <Starfield.Lawrence@epa.gov>; Simons, Andrew <Simons.Andrew@epa.gov>; Gustafson, Adam <Gustafson.Adam@epa.gov>

**Cc:** Fotouhi, David <Fotouhi.David@epa.gov>

**Subject:** RE: AA Roles in Response to Petition for Emergency Rulemaking

Larry – thanks for sharing.

Andy { Ex. 5 Deliberative Process (DP)

# Ex. 5 Deliberative Process (DP)

Jim

Ex. 6 Personal Privacy (PP)

**From:** Bodine, Susan <bodine.susan@epa.gov>

**Sent:** Wednesday, May 20, 2020 1:32 PM

**To:** Leopold, Matt (OGC) <Leopold.Matt@epa.gov>; Fotouhi, David <Fotouhi.David@epa.gov>

**Cc:** Starfield, Lawrence <Starfield.Lawrence@epa.gov>; Payne, James <payne.james@epa.gov>

**Subject:** AA Roles in Response to Petition for Emergency Rulemaking

**Importance:** High

# Ex. 5 AC/AWP

# Ex. 5 AC/AWP

Susan

[attachment]

**To:** Bodine, Susan[bodine.susan@epa.gov]  
**From:** Starfield, Lawrence[/O=EXCHANGELABS/OU=EXCHANGE ADMINISTRATIVE GROUP (FYDIBOHF23SPDLT)/CN=RECIPIENTS/CN=8A89D6CD217D4254A5879ABECB3F314E-STARFIELD, LAWRENCE]  
**Sent:** Wed 5/20/2020 6:01:44 PM (UTC)  
**Subject:** RE: AA Roles in Response to Petition for Emergency Rulemaking

I like the way you handled it. Matt has been slow to give direction to his staff.

---

**From:** Bodine, Susan <bodine.susan@epa.gov>  
**Sent:** Wednesday, May 20, 2020 1:00 PM  
**To:** Starfield, Lawrence <Starfield.Lawrence@epa.gov>  
**Subject:** RE: AA Roles in Response to Petition for Emergency Rulemaking

Never mind. I will send to Matt.

**Ex. 5 Attorney Work Product (AWP)**

---

**From:** Bodine, Susan  
**Sent:** Wednesday, May 20, 2020 12:52 PM  
**To:** Starfield, Lawrence <Starfield.Lawrence@epa.gov>  
**Subject:** Re: AA Roles in Response to Petition for Emergency Rulemaking

Can you send back to Jim for OGC review of my edits?

Sent from my iPhone

On May 20, 2020, at 12:37 PM, Starfield, Lawrence <Starfield.Lawrence@epa.gov> wrote:

Looks great and ready to send. (I didn't know exactly what the "ask" was of the AA's -- the added detail will help a lot.)

Please cc me and I'll share with OCE and OGC staff. You may want to cc Matt, Mandy, Doug?

Larry

---

**From:** Bodine, Susan <bodine.susan@epa.gov>  
**Sent:** Wednesday, May 20, 2020 12:18 PM  
**To:** Starfield, Lawrence <Starfield.Lawrence@epa.gov>  
**Subject:** FW: AA Roles in Response to Petition for Emergency Rulemaking  
**Importance:** High

See rewrite

**Ex. 5 AC/AWP**

# **Ex. 5 AC/AWP**

Susan

[attachment]



**To:** Starfield, Lawrence[Starfield.Lawrence@epa.gov]; Irving, John[Irving.John@epa.gov]; Bodine, Susan[bodine.susan@epa.gov]  
**Cc:** Tran, Victoria[tran.victoria@epa.gov]; Shiffman, Cari[Shiffman.Cari@epa.gov]; Bailey-Morton, Ethel[Bailey-Morton.Ethel@epa.gov]; Loving, Shanita[Loving.Shanita@epa.gov]  
**From:** Mirza, Sabah[/O=EXCHANGELABS/OU=EXCHANGE ADMINISTRATIVE GROUP (FYDIBOHF23SPDLT)/CN=RECIPIENTS/CN=816BF1F9B67D4892BDAC00DE2EABDA3F-MIRZA, SABAH]  
**Sent:** Wed 4/22/2020 9:57:43 PM (UTC)  
**Subject:** RE: Attached Briefing Materials for Thursday, April 23rd  
[AA on TPM Call April 23 2020.docx](#)  
[DRAFT OITA Guidelines re Consultation during COVID Pandemic.docx](#)

Hi John,

Please see attached talking points designed to facilitate your participation on tomorrow’s senior leadership call on Indian country issues which will focus on consultation during the COVID-19 public health emergency. Also attached is OITA’s draft guidance on consultation during the public health emergency.  
As Susan requested, Johnathan Binder will also join the call.

Thanks,  
Sabah

~~~~~  
Sabah Mirza, Special Assistant  
Office of Enforcement and Compliance Assurance  
U.S. Environmental Protection Agency  
1200 Pennsylvania Avenue NW, 3207E WJC South  
Washington, DC 20460  
Office: 202-564-8176

---

**From:** Loving, Shanita <Loving.Shanita@epa.gov>  
**Sent:** Wednesday, April 22, 2020 4:44 PM  
**To:** Bodine, Susan <bodine.susan@epa.gov>; Starfield, Lawrence <Starfield.Lawrence@epa.gov>; Irving, John <Irving.John@epa.gov>  
**Cc:** Tran, Victoria <tran.victoria@epa.gov>; Shiffman, Cari <Shiffman.Cari@epa.gov>; Mirza, Sabah <Mirza.Sabah@epa.gov>; Bailey-Morton, Ethel <Bailey-Morton.Ethel@epa.gov>  
**Subject:** Attached Briefing Materials for Thursday, April 23rd

Hello,

Attached are meeting materials for:

- 10:30 am -- OSRE Biweekly w/AA/PDAA/DAA (*Susan, Larry, John*)
- 12:00 pm -- EPA Tribal Program – update /discussion on COVID-19 response (*John*)
- 1:00 pm -- Ex. 6 Personal Privacy (PP)
- 2:00 pm -- Ex. 6 Personal Privacy (PP)
- 3:00 -- OCE Weekly w/AA/PDAA/DAA (*Susan, Larry, John*)

Thanks,  
  
Shanita Loving  
Program Specialist  
Environmental Protection Agency  
  
ED\_004611F\_00001030-00001

IO of the Assist. Administrator of the Office of Enforcement & Compliance Assurance  
1200 Pennsylvania Ave., NW  
WJC-South, Room 3204  
Washington, DC 20460  
Phone: (202) 564-2440

**To:** Irving, John[Irving.John@epa.gov]  
**Cc:** Bodine, Susan[bodine.susan@epa.gov]; Buschbacher, Michael (ENRD)[Michael.Buschbacher@usdoj.gov]  
**From:** Clark, Jeffrey (ENRD)[jbc1@usdoj.gov]  
**Sent:** Fri 6/5/2020 5:52:04 PM (UTC)  
**Subject:** Re: call today

Thanks John!

Sent from my iPhone

On Jun 5, 2020, at 1:47 PM, Irving, John <Irving.John@epa.gov> wrote:

Good luck, Jeff! Go kill it.

John S. Irving  
Deputy Assistant Administrator  
U.S. Environmental Protection Agency  
Office of Enforcement & Compliance Assurance  
Office: (202) 564-2496 / Mobile: Ex. 6 Personal Privacy (PP)

---

**From:** Clark, Jeffrey (ENRD) <jbc1@usdoj.gov>  
**Sent:** Friday, June 5, 2020 1:26 PM  
**To:** Bodine, Susan <bodine.susan@epa.gov>  
**Cc:** Irving, John <Irving.John@epa.gov>; Buschbacher, Michael (ENRD) <Michael.Buschbacher@usdoj.gov>  
**Subject:** Re: call today

Thanks! It's a big one.

I'd say it's the first time I get to stand up in court and say I'm Jeff Clark from the Justice Department, here on behalf of the President. Except that I'll be sitting in my office, because it's zoom and people are still afraid of their own shadows due to Covid.

Jeff

Sent from my iPhone

On Jun 5, 2020, at 1:19 PM, Bodine, Susan <[bodine.susan@epa.gov](mailto:bodine.susan@epa.gov)> wrote:

No problem. Not time sensitive.  
Good luck this evening.

---

**From:** Clark, Jeffrey (ENRD) <[jbc1@usdoj.gov](mailto:jbc1@usdoj.gov)>  
**Sent:** Friday, June 5, 2020 1:09 PM  
**To:** Bodine, Susan <[bodine.susan@epa.gov](mailto:bodine.susan@epa.gov)>  
**Cc:** Irving, John <[Irving.John@epa.gov](mailto:Irving.John@epa.gov)>; Buschbacher, Michael (ENRD) <[Michael.Buschbacher@usdoj.gov](mailto:Michael.Buschbacher@usdoj.gov)>  
**Subject:** Re: call today

Susan, sorry, wasn't looking at my calendar.

I have an evening argument via Zoom in the Ninth Circuit today. I need all available time for that.

Billions at stake and a vacated President Trump executive order on the line. Topic is offshore drilling.

Happy to reschedule as soon as possible on Monday. Michael can you work with assistants to get a replacement time that works for Susan and John?

Jeff

Sent from my iPhone

On Jun 5, 2020, at 12:47 PM, Bodine, Susan <[bodine.susan@epa.gov](mailto:bodine.susan@epa.gov)> wrote:

I have only three items to discuss.

**Ex. 7(A)**

**Ex. 5 AC/DP**

Susan Parker Bodine  
Assistant Administrator  
Office of Enforcement and Compliance Assurance  
202-564-2440

## OECA COVID-19 Coordination Summary

Reporting Period: Wednesday, April 15<sup>th</sup> – Monday, April 20<sup>th</sup>

The OHS COVID-19 Coordination Report serves as a repository for EPA's COVID-related activities. The OEM/OHS reporting cycle runs from Wednesday – Tuesday and the Agency COVID report is published on the next Wednesday, covering the previous reporting cycle. The information provided in this summary will appear in the April 22<sup>nd</sup> OHS report.

- On April 15<sup>th</sup>, during the *EPA and States Financial and Penalty Analysis Monthly Call*, attendees discussed what EPA and States are doing when respondents claim an inability to pay penalties because of COVID-19.

**Ex. 7(E)**

- On April 15<sup>th</sup>, FFEO and OSRE provided information on two public guidance documents: the March 26<sup>th</sup> OECA guidance, "COVID-19 Implications for EPA's Enforcement and Compliance Assurance Program" and the April 10<sup>th</sup> OLEM-OECA guidance "Interim Guidance on Site Field Work Decisions Due to Impacts of COVID-19." The information addressed COVID-19 related requests for modifications to work required by enforcement instruments issued under Superfund, RCRA Corrective Action and similar response action instruments, including support for continuing with new and ongoing enforcement proceedings. This information was provided to the Superfund and RCRA Directors and Deputies; Regional Counsels, Deputies and Branch Chiefs; HQ partners (OLEM & OGC); and DOJ partners.
- On April 16<sup>th</sup>, the Office of Civil Enforcement participated in a multi-agency meeting with the U.S. Customs and Border Protection's Customs Commercial Targeting and Analysis Center (CTAC). The meeting served as a check-in to provide information regarding CTAC operational status, share CBP developments and obtain updates from CTAC partner agencies re: COVID-19 response.
- OECA received a No Action Assurance request from Reps. Posey (FL) and Rose (TN) to allow glider truck manufacturers to exceed the annual production cap due to potential trucking needs during the pandemic. The request is under consideration.
- OECA received a letter from 15 state Attorneys General requesting that EPA rescind the Temporary Enforcement Policy. A response is under development.
- On April 16<sup>th</sup>, EPA received a new U.S. Government Accountability Office (GAO) engagement on Monitoring and Oversight of Response to Coronavirus 2019 Pandemic. This engagement is part of the GAO's responsibilities under the Coronavirus Aid, Relief, and Economic Security (CARES) Act, Public Law 116-136. OECA will likely have equities in this engagement and will be included in the Entrance Conference once it is scheduled.

- On Friday, April 17th, Water Enforcement Division Director provided a brief presentation to the Association of Clean Water Agencies on the OECA temporary policy. The group is comprised of our state co-regulators.

**Daily activity:**

- 

**Ex. 7(E)**

**To:** Dunn, Alexandra[dunn.alexandra@epa.gov]  
**Cc:** Rob Verchick[verchick@loyno.edu]; Gwen Keyes Fleming[gfleming@vnf.com]; A.J. Singletary[asingletary@vnf.com]; Stillman, Sarah[Stillman.Sarah@epa.gov]; Bodine, Susan[bodine.susan@epa.gov]; Shiffman, Cari[Shiffman.Cari@epa.gov]; Sundell, Valentia[Valentia.Sundell@americanbar.org]; Michelle Diffenderfer (MDiffenderfer@llw-law.com)[MDiffenderfer@llw-law.com]; Floyd, Susan Margaret[sfloyd3@entergy.com]; Jesse James (jessejajames@gmail.com)[jessejajames@gmail.com]; Blaine Early[bearly@stites.com]; Jonusaitis, Dana[Dana.Jonusaitis@americanbar.org]  
**From:** Michael Gerrard[MGerra@law.columbia.edu]  
**Sent:** Mon 4/13/2020 2:56:44 PM (UTC)  
**Subject:** Re: Outline for SEER webinar -- April 17 -- AA Bodine to Replace AA Dunn

Alex -- Thanks for letting me know.

Susan -- Welcome to the program.

I'm also copying Valentia and others from SEER so that they can change the web announcement to reflect this change in speakers -- Alexandra Dunn should be taken off the speaker list, and we should add in her place Susan Bodine, Assistant Administrator, Office of Enforcement and Compliance Assurance, US EPA.

On Mon, Apr 13, 2020 at 10:38 AM Dunn, Alexandra <dunn.alexandra@epa.gov> wrote:

All,

After looking at the topics, and talking with my colleagues, AA Susan Bodine will participate in my stead on this call. I'm copying her here as well as her Chief of Staff. Susan is the right person to address more of the topics than me, but particularly the first one. Susan and her Chief of Staff are copied here. I know the call will be great and wish you success!

Alexandra Dapolito Dunn, Esq.

Assistant Administrator

Office of Chemical Safety and Pollution Prevention

US Environmental Protection Agency

Washington, DC

**From:** Michael Gerrard <MGerra@law.columbia.edu>

**Sent:** Saturday, April 11, 2020 11:49 AM

**To:** Dunn, Alexandra <dunn.alexandra@epa.gov>; Rob Verchick <verchick@loyno.edu>; Gwen Keyes Fleming <gfleming@vnf.com>

**Cc:** A.J. Singletary <asingletary@vnf.com>; Stillman, Sarah <Stillman.Sarah@epa.gov>

**Subject:** Outline for SEER webinar -- April 17

Thanks to all of you for your responses on who should cover what topic. Based on these, here is what I suggest. For each of these topics, I'll pose a question to the indicated person. If more than one person is listed, the first person will provide the primary explanation, and the person or persons who follow will add any comments they wish on that topic. And even if you're not listed here, you're welcome to address a topic -- it would be great to have a free-flowing discussion. I have assigned a few topics to myself.

If there are any documents (e.g. EPA notices; blogs; client alerts) you would like posted for the audience, please send them to me.

I would welcome any suggested changes to this, whether as to topics, assignments, or order.

SEER has posted notice of the program [here](#). It would be great if you could send this to your networks, post this on social media, and otherwise spread the word.

Thanks very much.

1. EPA enforcement discretion -- AD, GF, RV
2. State enforcement discretion statements -- GF, RV
3. FIFRA/TSCA issues: Approval of disinfectants, pesticides -- AD
4. Medical waste issues -- GF
5. What environmentally-related activities are considered essential services? -- GF
6. Health and safety of workers performing essential services -- RV
7. Effect on cleanup of contaminated sites -- MG
8. Effect on monitoring and reporting requirements -- GF
9. Effect on consent degree obligations -- GF
10. Effect on environmental due diligence for transactions -- MG, GF
11. Emergency powers of President and governors -- RV
12. Effect of disaster declarations under Stafford Act -- RV
13. Exemptions from NEPA and state NEPAs -- MG
14. Disproportionate impact of COVID-19 crisis on EJ communities -- RV
15. Impact of air pollution on COVID-19 severity in EJ communities -- RV
16. Effect of emergency exemptions on EJ communities – experience from past disasters -- RV
17. Potential for industry abuse of emergency exemptions, enforcement discretion -- GF

On Fri, Apr 10, 2020 at 3:29 PM Stillman, Sarah <[Stillman.Sarah@epa.gov](mailto:Stillman.Sarah@epa.gov)> wrote:

Good afternoon all and happy Friday!



Alex will talk about EPA's enforcement flexibility under the OECA memo (listed as #1 below), if Robert is willing to share of course!

We are doing a lot of great work within our Office of Pesticide Programs, especially our antimicrobial division, so I am suggesting we pivot topic #4 to focus on the tools available under FIFRA that EPA is using to address the pandemic (e.g., listing of effective disinfectants, emerging viral pathogen and new sources ingredient guidances).

Please let me know if you have any questions.

I look forward to meeting you all in this virtual world we live in!

Sarah

---

Sarah Stillman

Attorney Advisor

Office of the Assistant Administrator

Office of Chemical Safety and Pollution Prevention

U.S. Environmental Protection Agency

Desk – (202) 564-6387

Cell – Ex. 6 Personal Privacy (PP)

---

**From:** Gwen Keyes Fleming <[gffleming@vnf.com](mailto:gffleming@vnf.com)>

**Sent:** Friday, April 10, 2020 1:45 PM

**To:** Dunn, Alexandra <[dunn.alexandra@epa.gov](mailto:dunn.alexandra@epa.gov)>; Robert Verchick <[verchick@loyno.edu](mailto:verchick@loyno.edu)>; Michael Gerrard <[MGerra@law.columbia.edu](mailto:MGerra@law.columbia.edu)>; A.J. Singletary <[asingletary@vnf.com](mailto:asingletary@vnf.com)>

**Cc:** Michelle Diffenderfer ([MDiffenderfer@llw-law.com](mailto:MDiffenderfer@llw-law.com)) <[MDiffenderfer@llw-law.com](mailto:MDiffenderfer@llw-law.com)>; Sundell, Valentia <[Valentia.Sundell@americanbar.org](mailto:Valentia.Sundell@americanbar.org)>; Floyd, Susan Margaret <[sfloyd3@entergy.com](mailto:sfloyd3@entergy.com)>; Jonusaitis, Dana <[Dana.Jonusaitis@americanbar.org](mailto:Dana.Jonusaitis@americanbar.org)>; Read, Allison <[Allison.Read@americanbar.org](mailto:Allison.Read@americanbar.org)>; Karen Mignone <[karen.mignone@qualus.com](mailto:karen.mignone@qualus.com)>; Jesse James ([jessejayjames@gmail.com](mailto:jessejayjames@gmail.com)) <[jessejayjames@gmail.com](mailto:jessejayjames@gmail.com)>; Blaine Early <[bearly@stites.com](mailto:bearly@stites.com)>; Giddings, Daniel <[giddings.daniel@epa.gov](mailto:giddings.daniel@epa.gov)>; Stillman, Sarah <[Stillman.Sarah@epa.gov](mailto:Stillman.Sarah@epa.gov)>

**Subject:** RE: ABA SEER Program on Environmental Law During COVID-19 Crisis

Looping A.J. Singletary who will be helping me as well. We will send you our suggested topics shortly.

Thanks,

Gwen

**Gwendolyn Keyes Fleming | Partner**



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**To:** Robert Verchick; Michael Gerrard

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**Subject:** RE: ABA SEER Program on Environmental Law During COVID-19 Crisis

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Adding Sarah Stillman who is helping me prepare. We will send my list shortly. It will not be as long as Rob's! I may add some topics that were not on the original list as a consequence.

Alexandra Dapolito Dunn, Esq.

Assistant Administrator

Office of Chemical Safety and Pollution Prevention

US Environmental Protection Agency

Washington, DC

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**Subject:** Re: ABA SEER Program on Environmental Law During COVID-19 Crisis

Michael,

Thanks for assigning this impossible task! My list is below. I'm very flexible on this. The criteria I used: relative public importance, topics that fit well together, topics I have more knowledge about, topics that say something about broader structural issues. Looking forward to seeing others' lists.

Rob

1. EPA enforcement discretion (Susan Bodine 3/26/20 memo)
3. State enforcement discretion statements
6. Health and safety of workers performing essential services
15. Emergency powers of President and governors
16. Effect of disaster declarations under Stafford Act
19. Disproportionate impact of COVID-19 crisis on EJ communities
20. Impact of air pollution on COVID-19 severity in EJ communities
21. Effect of emergency exemptions on EJ communities – experience from past disasters

Alex, Gwen, Rob --

In preparation for our webinar "Environmental Law During the COVID-19 Crisis: Emergency Exemptions and Response (Friday, April 17, 1:00 - 2:30 pm Eastern), below is a list of suggested topics. I would appreciate it if each of you would indicate which of the topics you would like to cover, and also any other topics that we think we should cover. The people who are cc'd are also welcome to suggest additional topics. I'll then put together a proposed outline indicating who will cover what, and in what sequence. The program will be more interesting if we have back-and-forth rather than just four 20-minute talks, so I suggest that I direct questions to each of you concerning the topics we all agree upon.

We can also provide links to written materials that may be of interest to the viewers. I hope that SEER can get the flyer out right away so that we have a good audience.

Mike Gerrard

1. EPA enforcement discretion (Susan Bodine 3/26/20 memo)
2. PHMSA enforcement discretion
3. [unintelligible]
4. FIFRA/TSCA issues: Approval of disinfectants, pesticides
5. What environmentally-related activities are considered essential services?
6. [unintelligible]
7. Effect on cleanup of contaminated sites
8. Effect on public water systems
9. Effect on wastewater treatment systems
10. Effect on monitoring and reporting requirements
11. Medical waste issues
12. Fuel waiver
13. Effect on consent degree obligations
14. Effect on environmental due diligence for transactions
15. [unintelligible]
16. [unintelligible]
17. Exemptions from NEPA and state NEPAs

18. How long will federal and state waivers remain in place?

22. Potential for industry abuse of emergency exemptions, enforcement discretion

On Thu, Apr 2, 2020 at 12:59 PM Giddings, Daniel <[giddings.daniel@epa.gov](mailto:giddings.daniel@epa.gov)> wrote:

Good afternoon,

I'm responding on behalf of Alex Dunn.

Friday, April 17 from 1 p.m. to 2:30 p.m. is the window that works best for Alex.

Best,

Danny Giddings

Special Assistant to the Assistant Administrator

Office of Chemical Safety and Pollution Prevention

U.S. Environmental Protection Agency

Desk: 202-564-0320

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**From:** Gwen Keyes Fleming <[gfleming@vnf.com](mailto:gfleming@vnf.com)>

**Sent:** Thursday, April 02, 2020 9:43 AM

**To:** Michael Gerrard <[MGerra@law.columbia.edu](mailto:MGerra@law.columbia.edu)>; Dunn, Alexandra <[dunn.alexandra@epa.gov](mailto:dunn.alexandra@epa.gov)>; Rob Verchick <[verchick@loyno.edu](mailto:verchick@loyno.edu)>

**Cc:** Michelle Diffenderfer ([MDiffenderfer@llw-law.com](mailto:MDiffenderfer@llw-law.com)) <[MDiffenderfer@llw-law.com](mailto:MDiffenderfer@llw-law.com)>; Sundell, Valentia <[Valentia.Sundell@americanbar.org](mailto:Valentia.Sundell@americanbar.org)>; Floyd, Susan Margaret <[sfloyd3@entergy.com](mailto:sfloyd3@entergy.com)>; Jonusaitis, Dana <[Dana.Jonusaitis@americanbar.org](mailto:Dana.Jonusaitis@americanbar.org)>; Read, Allison <[Allison.Read@americanbar.org](mailto:Allison.Read@americanbar.org)>; Karen Mignone <[karen.mignone@qualus.com](mailto:karen.mignone@qualus.com)>; Jesse James ([jessejajames@gmail.com](mailto:jessejajames@gmail.com)) <[jessejajames@gmail.com](mailto:jessejajames@gmail.com)>; Blaine Early <[bearly@stites.com](mailto:bearly@stites.com)>; Giddings, Daniel <[giddings.daniel@epa.gov](mailto:giddings.daniel@epa.gov)>

**Subject:** RE: ABA SEER Program on Environmental Law During COVID-19 Crisis

The 14<sup>th</sup>, 15<sup>th</sup> & 17<sup>th</sup> work best for me. I'm licensed and in good standing in the Georgia and D.C. Bar Associations.

<image001.png>

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[gffleming@vnf.com](mailto:gffleming@vnf.com) | [vnf.com](http://vnf.com)

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<image002.png> **Named 2020 “Law Firm of the Year” for Natural Resources Law.**

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**From:** Michael Gerrard [<mailto:MGerra@law.columbia.edu>]

**Sent:** Wednesday, April 01, 2020 8:34 PM

**To:** Dunn Alexandra; Gwen Keyes Fleming; Rob Verchick

**Cc:** Michelle Diffenderfer ([MDiffenderfer@llw-law.com](mailto:MDiffenderfer@llw-law.com)); Sundell, Valentia; Floyd, Susan Margaret; Jonusaitis, Dana; Read, Allison; Karen Mignone; Jesse James ([jessejames@gmail.com](mailto:jessejames@gmail.com)); Blaine Early; Daniel Giddings

**Subject:** ABA SEER Program on Environmental Law During COVID-19 Crisis

Caution: External Email.

Alex, Gwen, Rob --

Thank you very much for agreeing to join me on the ABA SEER webinar. It is tentatively entitled "Environmental Law During the COVID-19 Crisis: Emergency Exemptions and Response."

The first thing we need is to pick a date and time. I suggest 1:00 - 2:30 pm Eastern on one of these dates: April 13, 14, 15, or 17. Please let me know what works for you. This is a tighter time frame than most ABA programs, but in view of the emergency nature of the subject matter, speed seems appropriate.

Please also confirm whether you are a licensed attorney in good standing. The ABA needs that information for its records.

Once we pin down a date, I'll be back in touch to discuss format, division of topics, and what written materials we may want to post. This isn't a CLE program but viewers find written materials helpful. The materials needn't be prepared for this program, but we need to make sure we are not posting (as opposed to linking to) copyrighted materials without permission.

I am copying the relevant officers and staff of SEER, who can correct me if I got any of the above wrong.

I look forward to working with you to make this program as useful as possible to the thousands of environmental lawyers who belong to SEER, many of whom are grappling with the issues that this program will address.

Michael

--

**Michael B. Gerrard**

Andrew Sabin Professor of Professional Practice

Director, Sabin Center for Climate Change Law

Columbia Law School

435 West 116th Street

New York, New York 10027

Telephone: (212) 854-3287

Facsimile: (212) 854-7946

[michael.gerrard@law.columbia.edu](mailto:michael.gerrard@law.columbia.edu)

[www.columbiaclimatelaw.com](http://www.columbiaclimatelaw.com)

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[www.columbiaclimatelaw.com](http://www.columbiaclimatelaw.com)

**To:** Dunn, Alexandra[dunn.alexandra@epa.gov]  
**Cc:** Rob Verchick[verchick@loyno.edu]; Gwen Keyes Fleming[gfleming@vnf.com]; A.J. Singletary[asingletary@vnf.com]; Stillman, Sarah[Stillman.Sarah@epa.gov]; Bodine, Susan[bodine.susan@epa.gov]; Shiffman, Cari[Shiffman.Cari@epa.gov]; Sundell, Valentia[Valentia.Sundell@americanbar.org]  
**From:** Michael Gerrard[MGerra@law.columbia.edu]  
**Sent:** Wed 4/15/2020 2:25:30 PM (UTC)  
**Subject:** Re: Outline for SEER webinar -- April 17 -- AA Bodine to Replace AA Dunn  
[ABA SEER COVID-19 Supplemental Materials.docx](#)

Here is a revised proposed outline for Friday's webinar. The only changes I have made from the version I sent out on April 11 are to substitute Susan for Alex, and to add an item for the Peter Wright/Susan Bodine memo, "Interim Guidance on Site Field Work Decisions Due to Impacts of COVID-19." Please let me know if you would like to suggest additional changes.

As of yesterday about 350 people had registered for the program, and I'm sure that number will go up.

The format, as you all know, is that I will raise topics or questions, and the indicated person will respond. I'll then invite the other panelists to add anything they wish on that topic before moving on to the next.

A question for Valentia at ABA SEER -- how will we handle audience questions? Should we ask listeners to e-mail questions to me, or should we use a chat function on the webinar platform, so that I can select and read out questions?

I have also attached a sheet giving links to materials that listeners may find useful. If any of you would like me to add additional materials to the list, please let me know. Valentia -- I assume that you'll send the final version of this to everyone who has registered, together with the link to join the webinar? And are we using a webinar platform that is protected from that new phenomenon we have all been hearing about, Zoom bombing? Thanks.

1. EPA enforcement discretion -- SB, GF, RV
2. State enforcement discretion statements -- GF, RV
3. EPA interim guidance on site field work decisions -- SB
4. FIFRA/TSCA issues: Approval of disinfectants, pesticides -- SB
5. Medical waste issues -- GF
6. What environmentally-related activities are considered essential services? -- GF
7. Health and safety of workers performing essential services -- RV
8. Effect on monitoring and reporting requirements -- GF
9. Effect on consent degree obligations -- GF
10. Effect on environmental due diligence for transactions -- MG, GF
11. Emergency powers of President and governors -- RV
12. Effect of disaster declarations under Stafford Act -- RV
13. Exemptions from NEPA and state NEPAs -- MG
14. Disproportionate impact of COVID-19 crisis on EJ communities -- RV
15. Impact of air pollution on COVID-19 severity in EJ communities -- RV
16. Effect of emergency exemptions on EJ communities -- experience from past disasters -- RV
17. Potential for industry abuse of emergency exemptions, enforcement discretion -- GF

On Mon, Apr 13, 2020 at 10:38 AM Dunn, Alexandra <[dunn.alexandra@epa.gov](mailto:dunn.alexandra@epa.gov)> wrote:

All,

After looking at the topics, and talking with my colleagues, AA Susan Bodine will participate in my stead on this call. I'm copying her here as well as her Chief of Staff. Susan is the right person to address more of the topics than me, but particularly the first one. Susan and her Chief of Staff are copied here. I know the call will be great and wish you success!

Alexandra Dapolito Dunn, Esq.

Assistant Administrator

Office of Chemical Safety and Pollution Prevention

Washington, DC

**From:** Michael Gerrard <[MGerra@law.columbia.edu](mailto:MGerra@law.columbia.edu)>

**Sent:** Saturday, April 11, 2020 11:49 AM

**To:** Dunn, Alexandra <[dunn.alexandra@epa.gov](mailto:dunn.alexandra@epa.gov)>; Rob Verchick <[verchick@loyno.edu](mailto:verchick@loyno.edu)>; Gwen Keyes Fleming <[gffleming@vnf.com](mailto:gffleming@vnf.com)>

**Cc:** A.J. Singletary <[asingletary@vnf.com](mailto:asingletary@vnf.com)>; Stillman, Sarah <[Stillman.Sarah@epa.gov](mailto:Stillman.Sarah@epa.gov)>

**Subject:** Outline for SEER webinar -- April 17

Thanks to all of you for your responses on who should cover what topic. Based on these, here is what I suggest. For each of these topics, I'll pose a question to the indicated person. If more than one person is listed, the first person will provide the primary explanation, and the person or persons who follow will add any comments they wish on that topic. And even if you're not listed here, you're welcome to address a topic -- it would be great to have a free-flowing discussion. I have assigned a few topics to myself.

If there are any documents (e.g. EPA notices; blogs; client alerts) you would like posted for the audience, please send them to me.

I would welcome any suggested changes to this, whether as to topics, assignments, or order.

SEER has posted notice of the program [here](#). It would be great if you could send this to your networks, post this on social media, and otherwise spread the word.

Thanks very much.

1. EPA enforcement discretion -- AD, GF, RV
2. State enforcement discretion statements -- GF, RV
3. FIFRA/TSCA issues: Approval of disinfectants, pesticides -- AD
4. Medical waste issues -- GF
5. What environmentally-related activities are considered essential services? -- GF
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7. Effect on cleanup of contaminated sites -- MG
8. Effect on monitoring and reporting requirements -- GF
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Good afternoon all and happy Friday!

Alex will talk about EPA's enforcement flexibility under the OECA memo (listed as #1 below), if Robert is willing to share of course!

We are doing a lot of great work within our Office of Pesticide Programs, especially our antimicrobial division, so I am suggesting we pivot topic #4 to focus on the tools available under FIFRA that EPA is using to address the pandemic (e.g., listing of effective disinfectants, emerging viral pathogen and new sources ingredient guidances).

Please let me know if you have any questions.

I look forward to meeting you all in this virtual world we live in!

Sarah

---

Sarah Stillman

Attorney Advisor

Office of the Assistant Administrator

Office of Chemical Safety and Pollution Prevention

U.S. Environmental Protection Agency  
Desk – (202) 564-6387

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**Subject:** RE: ABA SEER Program on Environmental Law During COVID-19 Crisis

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Thanks,

Gwen

**Gwendolyn Keyes Fleming | Partner**



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Assistant Administrator

Office of Chemical Safety and Pollution Prevention

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**Sent:** Thursday, April 9, 2020 2:58 PM

**To:** Michael Gerrard <[MGerra@law.columbia.edu](mailto:MGerra@law.columbia.edu)>

**Cc:** Dunn, Alexandra <[dunn.alexandra@epa.gov](mailto:dunn.alexandra@epa.gov)>; Gwen Keyes Fleming <[gffleming@vnf.com](mailto:gffleming@vnf.com)>; Michelle Diffenderfer ([MDiffenderfer@llw-law.com](mailto:MDiffenderfer@llw-law.com)) <[MDiffenderfer@llw-law.com](mailto:MDiffenderfer@llw-law.com)>; Sundell, Valentia <[Valentia.Sundell@americanbar.org](mailto:Valentia.Sundell@americanbar.org)>; Floyd, Susan Margaret <[sfloyd3@entergy.com](mailto:sfloyd3@entergy.com)>; Jonusaitis, Dana <[Dana.Jonusaitis@americanbar.org](mailto:Dana.Jonusaitis@americanbar.org)>; Read, Allison <[Allison.Read@americanbar.org](mailto:Allison.Read@americanbar.org)>; Karen Mignone <[karen.mignone@qualus.com](mailto:karen.mignone@qualus.com)>; Jesse James ([jessejayjames@gmail.com](mailto:jessejayjames@gmail.com)) <[jessejayjames@gmail.com](mailto:jessejayjames@gmail.com)>; Blaine Early <[bearly@stites.com](mailto:bearly@stites.com)>; Giddings, Daniel <[giddings.daniel@epa.gov](mailto:giddings.daniel@epa.gov)>

**Subject:** Re: ABA SEER Program on Environmental Law During COVID-19 Crisis

Michael,

Thanks for assigning this impossible task! My list is below. I'm very flexible on this. The criteria I used: relative public importance, topics that fit well together, topics I have more knowledge about, topics that say something about broader structural issues. Looking forward to seeing others' lists.

Rob

1. EPA enforcement discretion (Susan Bodine 3/26/20 memo)
3. State enforcement discretion statements
6. Health and safety of workers performing essential services
15. Emergency powers of President and governors
16. Effect of disaster declarations under Stafford Act
19. Disproportionate impact of COVID-19 crisis on EJ communities
20. Impact of air pollution on COVID-19 severity in EJ communities
21. Effect of emergency exemptions on EJ communities – experience from past disasters

On Apr 8, 2020, at 8:09 PM, Michael Gerrard <[MGerra@law.columbia.edu](mailto:MGerra@law.columbia.edu)> wrote:

Alex, Gwen, Rob --

In preparation for our webinar "Environmental Law During the COVID-19 Crisis: Emergency Exemptions and Response (Friday, April 17, 1:00 - 2:30 pm Eastern), below is a list of suggested topics. I would appreciate it if each of you would indicate which of the topics you would like to cover, and also any other topics that we think we should cover. The people who are cc'd are also welcome to suggest additional topics. I'll then put together a proposed outline indicating who will cover what, and in what sequence. The program will be more interesting if we have back-and-forth rather than just four 20-minute talks, so I suggest that I direct questions to each of you concerning the topics we all agree upon.

We can also provide links to written materials that may be of interest to the viewers. I hope that SEER can get the flyer out right away so that we have a good audience.

Mike Gerrard

1. EPA enforcement discretion (Susan Bodine 3/26/20 memo)
2. PHMSA enforcement discretion

4. FIFRA/TSCA issues: Approval of disinfectants, pesticides
5. What environmentally-related activities are considered essential services?
6. Effect on drinking water
7. Effect on cleanup of contaminated sites
8. Effect on public water systems
9. Effect on wastewater treatment systems
10. Effect on monitoring and reporting requirements
11. Medical waste issues
12. Fuel waiver
13. Effect on consent degree obligations
14. Effect on environmental due diligence for transactions
15. Effect on environmental impact statements
16. Effect on environmental justice
17. Exemptions from NEPA and state NEPAs
18. How long will federal and state waivers remain in place?
19. Effect on environmental justice
20. Effect on environmental justice
21. Effect on environmental justice
22. Potential for industry abuse of emergency exemptions, enforcement discretion

On Thu, Apr 2, 2020 at 12:59 PM Giddings, Daniel <[giddings.daniel@epa.gov](mailto:giddings.daniel@epa.gov)> wrote:

Good afternoon,

I'm responding on behalf of Alex Dunn.

Friday, April 17 from 1 p.m. to 2:30 p.m. is the window that works best for Alex.

Best,

Danny Giddings

Special Assistant to the Assistant Administrator

Office of Chemical Safety and Pollution Prevention



U.S. Environmental Protection Agency

Desk: 202-564-0320

Cell: Ex. 6 Personal Privacy (PP)

---

**From:** Gwen Keyes Fleming <[gffleming@vnf.com](mailto:gffleming@vnf.com)>  
**Sent:** Thursday, April 02, 2020 9:43 AM  
**To:** Michael Gerrard <[MGerra@law.columbia.edu](mailto:MGerra@law.columbia.edu)>; Dunn, Alexandra <[dunn.alexandra@epa.gov](mailto:dunn.alexandra@epa.gov)>; Rob Verchick <[verchick@loyno.edu](mailto:verchick@loyno.edu)>  
**Cc:** Michelle Diffenderfer ([MDiffenderfer@llw-law.com](mailto:MDiffenderfer@llw-law.com)) <[MDiffenderfer@llw-law.com](mailto:MDiffenderfer@llw-law.com)>; Sundell, Valentia <[Valentia.Sundell@americanbar.org](mailto:Valentia.Sundell@americanbar.org)>; Floyd, Susan Margaret <[sfloyd3@entergy.com](mailto:sfloyd3@entergy.com)>; Jonusaitis, Dana <[Dana.Jonusaitis@americanbar.org](mailto:Dana.Jonusaitis@americanbar.org)>; Read, Allison <[Allison.Read@americanbar.org](mailto:Allison.Read@americanbar.org)>; Karen Mignone <[karen.mignone@qualus.com](mailto:karen.mignone@qualus.com)>; Jesse James ([jessejames@gmail.com](mailto:jessejames@gmail.com)) <[jessejames@gmail.com](mailto:jessejames@gmail.com)>; Blaine Early <[bearly@stites.com](mailto:bearly@stites.com)>; Giddings, Daniel <[giddings.daniel@epa.gov](mailto:giddings.daniel@epa.gov)>  
**Subject:** RE: ABA SEER Program on Environmental Law During COVID-19 Crisis

The 14<sup>th</sup>, 15<sup>th</sup> & 17<sup>th</sup> work best for me. I'm licensed and in good standing in the Georgia and D.C. Bar Associations.

**Gwendolyn Keyes Fleming | Partner**

<image001.png>

1050 Thomas Jefferson Street, NW

Washington, DC 20007

O: (202) 298-1928 | C: (202) 594-7481

[gffleming@vnf.com](mailto:gffleming@vnf.com) | [vnf.com](http://vnf.com)

*Admitted to practice in Georgia and the District of Columbia*

<image002.png> **Named 2020 "Law Firm of the Year" for Natural Resources Law.**

*This communication may contain information and/or metadata that is legally privileged, confidential or exempt from disclosure. If you are not the intended recipient, please do not read or review the content and/or metadata and do not disseminate, distribute or copy this communication. Anyone who receives this message in error should notify the sender immediately by telephone (202-298-1800) or by return e-mail and delete it from his or her computer.*

**From:** Michael Gerrard [<mailto:MGerra@law.columbia.edu>]  
**Sent:** Wednesday, April 01, 2020 8:34 PM  
**To:** Dunn Alexandra; Gwen Keyes Fleming; Rob Verchick

**Cc:** Michelle Diffenderfer ([MDiffenderfer@llw-law.com](mailto:MDiffenderfer@llw-law.com)); Sundell, Valentia; Floyd, Susan Margaret; Jonusaitis, Dana; Read, Allison; Karen Mignone; Jesse James ([jessejames@gmail.com](mailto:jessejames@gmail.com)); Blaine Early; Daniel Giddings

**Subject:** ABA SEER Program on Environmental Law During COVID-19 Crisis

Caution: External Email.

Alex, Gwen, Rob --

Thank you very much for agreeing to join me on the ABA SEER webinar. It is tentatively entitled "Environmental Law During the COVID-19 Crisis: Emergency Exemptions and Response."

The first thing we need is to pick a date and time. I suggest 1:00 - 2:30 pm Eastern on one of these dates: April 13, 14, 15, or 17. Please let me know what works for you. This is a tighter time frame than most ABA programs, but in view of the emergency nature of the subject matter, speed seems appropriate.

Please also confirm whether you are a licensed attorney in good standing. The ABA needs that information for its records.

Once we pin down a date, I'll be back in touch to discuss format, division of topics, and what written materials we may want to post. This isn't a CLE program but viewers find written materials helpful. The materials needn't be prepared for this program, but we need to make sure we are not posting (as opposed to linking to) copyrighted materials without permission.

I am copying the relevant officers and staff of SEER, who can correct me if I got any of the above wrong.

I look forward to working with you to make this program as useful as possible to the thousands of environmental lawyers who belong to SEER, many of whom are grappling with the issues that this program will address.

Michael

--

**Michael B. Gerrard**

Andrew Sabin Professor of Professional Practice

Director, Sabin Center for Climate Change Law

Columbia Law School

435 West 116th Street

New York, New York 10027

Telephone: (212) 854-3287

Facsimile: (212) 854-7946

[michael.gerrard@law.columbia.edu](mailto:michael.gerrard@law.columbia.edu)

[www.columbiaclimatelaw.com](http://www.columbiaclimatelaw.com)

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## OECA COVID-19 Coordination Summary

Reporting Period: Wednesday, April 22<sup>nd</sup> – Monday, April 27<sup>th</sup>

The OHS COVID-19 Coordination Report serves as a repository for EPA's COVID-related activities. The OEM/OHS reporting cycle runs from Wednesday – Tuesday and the Agency COVID report is published on the next Wednesday, covering the previous reporting cycle. The information provided in this summary will appear in the April 29<sup>th</sup> OHS report.

- On April 21<sup>st</sup>, OECA received a letter from three House Committees (Energy and Commerce, Transportation and Infrastructure, and Appropriations) on the temporary enforcement policy. A response is in development.
- On April 22<sup>nd</sup>, OECA received a letter from the House from the House Oversight Committee Majority regarding the temporary enforcement policy. The Committee requested a briefing by May 1<sup>st</sup>, as well as documents. A response is in development.
- The Office of Civil Enforcement's Waste and Chemical Enforcement Division (WCED) and the Office of Compliance (OC) are working with the Office of Pesticide Programs (OPP) on guidance governing training requirements under the worker protection standard, appropriate use of PPE, and annual pesticide applicator training certifications. Drafts will be circulated to AA leadership early next week.
- On April 24, 2020, EPA issued an internal guidance on reporting both on-site and off-site compliance monitoring activities. The guidance explains that starting in FY 2020 EPA will only count activities as inspections when an EPA credentialed inspector is on-site. In instances where an EPA credentialed inspector is not on-site but is working with another federal agency that is on-site EPA will count this as an off-site monitoring compliance. The guidance applies to all FY 2020 compliance monitoring activities, and with the increase in off-site compliance monitoring activities during the current public health emergency the Agency will nationally report all key off-site compliance monitoring conducted from April 1, 2020, through September 30, 2020.
- During the week of April 27th, WCED, OC, and OPP will hold a call with the leadership team of the American Association of Pest Control Officials on the Temporary Enforcement Policy.
- On April 28th, the Air Enforcement Associate Division Director will meet with Association of Air Pollution Control Agencies (AAPCA) members to talk about enforcement and compliance during COVID-19.

### **Public Products in Development or Published**

- OECA's Federal Facilities Enforcement Office worked with the board of FedCenter, the government's online environmental compliance and stewardship site, to gather and post agencies' guidance on environmental operations and compliance during the COVID-19 health emergency to help agencies coordinate on and learn from each other's policies and procedures. For more information, please see: <https://www.fedcenter.gov/>
- OECA and OCSPP are developing a compliance advisory addressing select provisions of FIFRA's antimicrobial regulatory requirements using plain language. The advisory will provide compliance assistance to the public due to EPA's concerns related to pesticide products being used to disinfect surfaces which claim to kill SARS-CoV-2.

**To:** Bodine, Susan[bodine.susan@epa.gov]; Kelley, Rosemarie[Kelley.Rosemarie@epa.gov]  
**Cc:** Starfield, Lawrence[Starfield.Lawrence@epa.gov]; Irving, John[Irving.John@epa.gov]; Shiffman, Cari[Shiffman.Cari@epa.gov]; Mirza, Sabah[Mirza.Sabah@epa.gov]; Tran, Victoria[tran.victoria@epa.gov]; Bahk, Benjamin[Bahk.Benjamin@epa.gov]; Theis, Joseph[Theis.Joseph@epa.gov]  
**From:** Pollins, Mark[/O=EXCHANGELABS/OU=EXCHANGE ADMINISTRATIVE GROUP (FYDIBOHF23SPDLT)/CN=RECIPIENTS/CN=591F52A6CC074A2394FB5DDC306C2FD7-MPOLLINS]  
**Sent:** Sat 4/4/2020 4:55:24 PM (UTC)  
**Subject:** RE: question regarding sea-to-sea circulation

## Ex. 5 Deliberative Process (DP)

Thanks for the notice. This one has not come to our attention yet.

Mark

Mark Pollins, Director  
Water Enforcement Division  
Office of Civil Enforcement  
Office of Enforcement and Compliance Assurance (OECA)  
U.S. Environmental Protection Agency  
Phone: (202) 564-4001  
Fax: (202) 564-0018

---

**From:** Bodine, Susan <bodine.susan@epa.gov>  
**Sent:** Saturday, April 04, 2020 11:24 AM  
**To:** Pollins, Mark <Pollins.Mark@epa.gov>; Kelley, Rosemarie <Kelley.Rosemarie@epa.gov>  
**Cc:** Starfield, Lawrence <Starfield.Lawrence@epa.gov>; Irving, John <Irving.John@epa.gov>; Shiffman, Cari <Shiffman.Cari@epa.gov>; Mirza, Sabah <Mirza.Sabah@epa.gov>; Tran, Victoria <tran.victoria@epa.gov>  
**Subject:** Fwd: question regarding sea-to-sea circulation

## Ex. 5 AC/DP

Sent from my iPhone  
Begin forwarded message:

**From:** "Goodin, John" <Goodin.John@epa.gov>  
**Date:** April 4, 2020 at 9:26:46 AM EDT  
**To:** "Forsgren, Lee" <Forsgren.Lee@epa.gov>  
**Cc:** "Frazer, Brian" <Frazer.Brian@epa.gov>, Martha Shimkin <mkeshimkin@gmail.com>, "Mejias, Melissa" <mejias.melissa@epa.gov>, "Bodine, Susan" <bodine.susan@epa.gov>  
**Subject:** Re: question regarding sea-to-sea circulation

Thanks, Lee.

Sent from my iPhone

On Apr 4, 2020, at 9:19 AM, Forsgren, Lee <Forsgren.Lee@epa.gov> wrote:

John,

# Ex. 5 Deliberative Process (DP)

Am cc'ing Dave Ross and Susan Bodine so they are aware of this discussion.

Regards,  
Lee

Sent from my iPhone

On Apr 4, 2020, at 8:36 AM, Goodin, John <[Goodin.John@epa.gov](mailto:Goodin.John@epa.gov)> wrote:

DELIBERATIVE

## Ex. 5 DP / Ex. 7(A)

John

Sent from my iPhone

On Apr 3, 2020, at 6:13 PM, Frazer, Brian <[Frazer.Brian@epa.gov](mailto:Frazer.Brian@epa.gov)> wrote:

Deliberative

John,

## Ex. 5 Deliberative Process (DP)

Thanks

bf

\*\*\*\*\*

Brian Frazer, Director  
Oceans, Wetlands and Communities Division  
Office of Wetlands, Oceans and Watersheds  
US Environmental Protection Agency  
202-566-1652

Sent from my iPhone  
Begin forwarded message:

**From:** "Faulk, Jack" <Faulk.Jack@epa.gov>  
**Date:** April 3, 2020 at 5:18:39 PM EDT  
**To:** "Frazer, Brian" <Frazer.Brian@epa.gov>  
**Subject:** FW: question regarding sea-to-sea circulation

Brian,

## Ex. 5 Deliberative Process (DP)

I have worked with Nikki over the years and did correspond with her early on when COVID first became an issue with cruise ships.

Thanks.

Jack

Permit Language: Discharges from pools and spas are authorized ... provided pool and spa water to be discharged is dechlorinated and/or debrominated, and discharge occurs while the vessel is underway. To be considered dechlorinated, the total residual chlorine in the pool or spa effluent must be less than 100 µg/l if the pool or spa water is discharged without going through an Advanced Wastewater Treatment System (AWTS). To be considered debrominated, the total residual oxidant in the pool or spa effluent must be below 25 µg/l if the pool or spa water is discharged without going through an AWTS. Pool and spa water may be added to the graywater treatment systems; however, any resultant discharge must meet all standards and requirements found in Part 5.1.1.1 and must be dechlorinated and/or debrominated as applicable.

**From:** Rigl, Nikki (CarnCorp) <nrigl@carnival.com>  
**Sent:** Friday, April 03, 2020 4:37 PM  
**To:** Faulk, Jack <Faulk.Jack@epa.gov>  
**Cc:** Tombolesi, Emilio (CarnCorp) <ETombolesi@carnival.com>;  
Jones, Denita (CarnCorp) <DJones3@carnival.com>  
**Subject:** question regarding sea-to-sea circulation

Good afternoon Jack,

Thank you very much for your support thus far in sharing the EPA's position with respect to COVID-19 and EPA compliance implications.

During our temporary stay of cruise ship operations, some of our ships are laid up off the U.S. coast at anchor >1NM but within 3NM (and therefore within VGP waters).

We are mindful of the restrictions on discharges of pool water within VGP waters per Section 5.1.1.2, requiring generally that discharges be dechlorinated, debrominated, and carried out underway.

However, some of our ships laid up in this location will be circulating unchlorinated sea water in their recreational water facilities in order to maintain the pipes and pumps of the pool system and to avoid corrosion. Without chlorine, this water is equivalent to sea water cooling circuits without an environmental impact.

We are seeking the EPA's approval to carry out such sea-to-sea circulation in VGP waters during this temporary stay of operations.

We appreciate your guidance on this.

Thank you!

Thanks, and best regards,

**Nikki Rigl, Esq.**

Manager, Maritime Environmental Policies & Procedures |  
Carnival Corporation & plc | 3655 N.W. 87<sup>th</sup> Avenue Miami,  
Florida 33178 | p: 305-599-2600 x18010 | c: Ex. 6 Personal Privacy (PP)  
[nrigl@carnival.com](mailto:nrigl@carnival.com)



**To:** Bodine, Susan[bodine.susan@epa.gov]  
**From:** Starfield, Lawrence[/O=EXCHANGELABS/OU=EXCHANGE ADMINISTRATIVE GROUP (FYDIBOHF23SPDLT)/CN=RECIPIENTS/CN=8A89D6CD217D4254A5879ABECB3F314E-STARFIELD, LAWRENCE]  
**Sent:** Wed 5/13/2020 12:16:37 AM (UTC)  
**Subject:** FW: Update on OGC recommendation for declarations in the unreasonable delay lawsuit

Susan,

**Ex. 5 AC/AWP/DP**

Larry  
This message is CONFIDENTIAL, and may contain legally privileged information. If you are not the intended recipient, or believe you received this communication in error, please delete it immediately, do not copy, and notify the sender. Thank you.

**From:** Kelley, Rosemarie <Kelley.Rosemarie@epa.gov>  
**Sent:** Tuesday, May 12, 2020 7:19 PM  
**To:** Starfield, Lawrence <Starfield.Lawrence@epa.gov>  
**Cc:** Koslow, Karin <Koslow.Karin@epa.gov>  
**Subject:** FW: Update on OGC recommendation for declarations in the unreasonable delay lawsuit

Larry –

**Ex. 5 AC/AWP/DP**

# **Ex. 5 AC/AWP/DP**

**To:** Bodine, Susan[bodine.susan@epa.gov]; Pollins, Mark[Pollins.Mark@epa.gov]  
**Cc:** Kelley, Rosemarie[Kelley.Rosemarie@epa.gov]; Starfield, Lawrence[Starfield.Lawrence@epa.gov]; Irving, John[Irving.John@epa.gov]; Shiffman, Cari[Shiffman.Cari@epa.gov]; Mirza, Sabah[Mirza.Sabah@epa.gov]; Tran, Victoria[tran.victoria@epa.gov]; Fogarty, Johnpc[Fogarty.Johnpc@epa.gov]  
**From:** Holmes, Carol[/O=EXCHANGELABS/OU=EXCHANGE ADMINISTRATIVE GROUP (FYDIBOHF23SPDLT)/CN=RECIPIENTS/CN=A63F745584114AE9B119547A4DC845FD-HOLMES, CAROL]  
**Sent:** Mon 4/13/2020 7:55:32 PM (UTC)  
**Subject:** RE: Follow Up Question; COVID19 Flexibilities Memo; DELIBERATIVE DRAFT; INTERNAL  
OW-OECA COVID19 Flexibilities and Priorities 4-13-2020OWresponsetoOECA spb +CSH.docx

Thanks Susan – I'll coordinate with Mark about getting back to OGWDW.

# Ex. 5 AC/DP

Thanks, Carol

May contain sensitive communication for internal deliberations only, attorney-client communication, attorney work product, and/or enforcement sensitive information. Do not distribute outside the U.S. Government.

---

Carol S. Holmes  
Senior Counsel  
Crosscutting Policy Staff  
Office of Civil Enforcement (MC 2241A)  
U.S. Environmental Protection Agency  
1200 Pennsylvania Ave, NW  
Washington, DC 20460  
Phone (202) 564-8709

---

---

**From:** Bodine, Susan <bodine.susan@epa.gov>  
**Sent:** Monday, April 13, 2020 3:23 PM  
**To:** Pollins, Mark <Pollins.Mark@epa.gov>; Holmes, Carol <Holmes.Carol@epa.gov>  
**Cc:** Kelley, Rosemarie <Kelley.Rosemarie@epa.gov>; Starfield, Lawrence <Starfield.Lawrence@epa.gov>; Irving, John <Irving.John@epa.gov>; Shiffman, Cari <Shiffman.Cari@epa.gov>; Mirza, Sabah <Mirza.Sabah@epa.gov>; Tran, Victoria <tran.victoria@epa.gov>  
**Subject:** FW: Follow Up Question; COVID19 Flexibilities Memo; DELIBERATIVE DRAFT; INTERNAL

# Ex. 5 AC/DP

Susan

---

**From:** Kramer, Jessica L. <kramer.jessical@epa.gov>  
**Sent:** Monday, April 13, 2020 2:49 PM  
**To:** Bodine, Susan <bodine.susan@epa.gov>  
**Cc:** Forsgren, Lee <Forsgren.Lee@epa.gov>  
**Subject:** RE: Follow Up Question; COVID19 Flexibilities Memo; DELIBERATIVE DRAFT; INTERNAL

Thanks, Susan. The below issue is resolved – you are correct and clearly my folks hadn't gone back to the original.

Attached is an updated version. Except as denoted with a comment bubble, OECA's edits have largely been accepted. There are a handful of comment bubbles that either explain why an edit wasn't accepted or respond to a question identified by OECA.

Please review and provide either responses where there is disagreement or denote that the issues have been resolved by responses provided by OW. Let me know if you have questions. Thanks,

Jess

Jessica L. Kramer  
Senior Counsel for the Assistant Administrator  
U.S. Environmental Protection Agency – Office of Water  
1200 Pennsylvania Avenue, N.W.  
Washington, D.C.  
[kramer.jessical@epa.gov](mailto:kramer.jessical@epa.gov)  
(202) 564-6322

---

**From:** Bodine, Susan <[bodine.susan@epa.gov](mailto:bodine.susan@epa.gov)>  
**Sent:** Monday, April 13, 2020 1:41 PM  
**To:** Kramer, Jessica L. <[kramer.jessical@epa.gov](mailto:kramer.jessical@epa.gov)>  
**Cc:** Forsgren, Lee <[Forsgren.Lee@epa.gov](mailto:Forsgren.Lee@epa.gov)>  
**Subject:** RE: Follow Up Question; COVID19 Flexibilities Memo; DELIBERATIVE DRAFT; INTERNAL

# Ex. 5 AC/DP

---

**From:** Kramer, Jessica L. <[kramer.jessical@epa.gov](mailto:kramer.jessical@epa.gov)>  
**Sent:** Monday, April 13, 2020 1:09 PM  
**To:** Bodine, Susan <[bodine.susan@epa.gov](mailto:bodine.susan@epa.gov)>  
**Cc:** Forsgren, Lee <[Forsgren.Lee@epa.gov](mailto:Forsgren.Lee@epa.gov)>  
**Subject:** Follow Up Question; COVID19 Flexibilities Memo; DELIBERATIVE DRAFT; INTERNAL

Hi Susan,

I have a follow up question for you/your folks. It is on page 7 of the attached and is provided in a reply to a question from Carol Holmes. We are still in the process of responding to the remaining questions posed by OECA so please just review and provide a response to this specific question for now. Again, once I have a final version with edits from you and Matt incorporated and outstanding questions resolved I will recirculate a final version for your review.

Thanks,

Jess

Jessica L. Kramer  
Senior Counsel for the Assistant Administrator  
U.S. Environmental Protection Agency – Office of Water

ED\_004611F\_00002847-00002

OECA COVID-19 2020  
FOIAs\_Production006

1200 Pennsylvania Avenue, N.W.  
Washington, D.C.  
[Kramer.jessical@epa.gov](mailto:Kramer.jessical@epa.gov)  
(202) 564-6322

**To:** Bodine, Susan[bodine.susan@epa.gov]; Irving, John[Irving.John@epa.gov]  
**Cc:** Fotouhi, David[Fotouhi.David@epa.gov]; Bertrand, Charlotte[Bertrand.Charlotte@epa.gov]; Forsgren, Lee[Forsgren.Lee@epa.gov]; Kramer, Jessica L.[kramer.jessical@epa.gov]; McDonough, Owen[mcdonough.owen@epa.gov]; Wildeman, Anna[wildeman.anna@epa.gov]; Aguirre, Janita[Aguirre.Janita@epa.gov]  
**From:** Ross, David P[/O=EXCHANGELABS/OU=EXCHANGE ADMINISTRATIVE GROUP (FYDIBOHF23SPDLT)/CN=RECIPIENTS/CN=119CD8B52DD14305A84863124AD6D8A6-ROSS, DAVID]  
**Sent:** Wed 4/29/2020 12:57:19 PM (UTC)  
**Subject:** cb\_bins\_OW-OECA COVID19 Flexibilities and PrioritiesCLEAN4.17.2020 (003)jlk.docx  
cb\_bins\_OW-OECA COVID19 Flexibilities and PrioritiesCLEAN4.17.2020 (003)jlk.docx

Confidential/Deliberative

Hi Susan and John,

Charlotte and Jess reviewed the existing memo and provided suggestions in the margins for how to handle the information in alternate formats if desired. I reviewed those and added my own suggestions;

**Ex. 5 Deliberative Process (DP)**

# Ex. 5 Deliberative Process (DP)

I need to check with Charlotte and Jess on the Q&As you sent yesterday to see if our staff has any feedback. I reviewed and they looked good to me at first glance. Thanks!

Dave

**To:** Bodine, Susan[bodine.susan@epa.gov]; Irving, John[Irving.John@epa.gov]; Hull, George[Hull.George@epa.gov]  
**From:** Starfield, Lawrence[/O=EXCHANGELABS/OU=EXCHANGE ADMINISTRATIVE GROUP (FYDIBOHF23SPDLT)/CN=RECIPIENTS/CN=8A89D6CD217D4254A5879ABECB3F314E-STARFIELD, LAWRENCE]  
**Sent:** Sun 4/19/2020 6:44:29 PM (UTC)  
**Subject:** FW: Inspections/ Enforcement Interview  
[DPostInterviewMESSAGESandQs.sjb.docx](#)  
[image00001.png](#)

Starfield, Lawrence has shared a OneDrive for Business file with you. To view it, click the link below.

 [DPostInterviewMESSAGESandQs.sjb.docx](#)

---

Susan,

Region 8 prepared the attached Q&A document for an interview tomorrow with the Denver Post. Looks good to me. Sharing it with you, John, and George, in case you want to add or revise any points.

Larry

---

**From:** Bohan, Suzanne <bohan.suzanne@epa.gov>  
**Sent:** Sunday, April 19, 2020 2:19 PM  
**To:** Starfield, Lawrence <Starfield.Lawrence@epa.gov>; Kelley, Rosemarie <Kelley.Rosemarie@epa.gov>; Johnson, Kathleen <Johnson.Kathleen@epa.gov>; Hindin, David <Hindin.David@epa.gov>  
**Subject:** Inspections/ Enforcement Interview

Larry, Rosemarie, David and Kathleen –

Tomorrow afternoon, I am participating with my RA in a phone interview with Denver Post reporter, Bruce Finley. R8's press POC drafted a "messages and Qs" and I've provided edits and responses to the questions. I'll be meeting with my RA and press folks tomorrow morning to discuss. If you have a chance today or tomorrow morning, I would appreciate any feedback on the attached. I've attached a OneDrive doc you can all directly edit as well as a Word version in case you're having connectivity issues today.

Thanks,  
Suzanne

*Suzanne J. Bohan, Director  
Enforcement and Compliance Assurance Division  
U.S. EPA, Region 8  
1595 Wynkoop Street  
Denver, CO 80202  
303.312.6925  
[Bohan.suzanne@epa.gov](mailto:Bohan.suzanne@epa.gov)*

Twitter: [@EPARegion8](#)  
Facebook: [U.S. EPA Region 8](#)  
Webpage: [EPA Region 8 \(Mountains and Plains\)](#)



**To:** Bodine, Susan[bodine.susan@epa.gov]  
**Cc:** Kelley, Rosemarie[Kelley.Rosemarie@epa.gov]; Starfield, Lawrence[Starfield.Lawrence@epa.gov]; Irving, John[Irving.John@epa.gov]; Shiffman, Cari[Shiffman.Cari@epa.gov]; Mirza, Sabah[Mirza.Sabah@epa.gov]; Tran, Victoria[tran.victoria@epa.gov]  
**From:** Pollins, Mark[/O=EXCHANGELABS/OU=EXCHANGE ADMINISTRATIVE GROUP (FYDIBOHF23SPDLT)/CN=RECIPIENTS/CN=591F52A6CC074A2394FB5DDC306C2FD7-MPOLLINS]  
**Sent:** Fri 4/17/2020 8:22:27 PM (UTC)  
**Subject:** RE: OW-OECA COVID19 Flexibilities and PrioritiesCLEAN4.17.2020 (003).docx

Yes. I agree. The paragraph is fine and helpful.

Mark Pollins, Director  
Water Enforcement Division  
Office of Civil Enforcement  
Office of Enforcement and Compliance Assurance (OECA)  
U.S. Environmental Protection Agency  
Phone: (202) 564-4001  
Fax: (202) 564-0018

---

**From:** Bodine, Susan <bodine.susan@epa.gov>  
**Sent:** Friday, April 17, 2020 4:20 PM  
**To:** Pollins, Mark <Pollins.Mark@epa.gov>  
**Cc:** Kelley, Rosemarie <Kelley.Rosemarie@epa.gov>; Starfield, Lawrence <Starfield.Lawrence@epa.gov>; Irving, John <Irving.John@epa.gov>; Shiffman, Cari <Shiffman.Cari@epa.gov>; Mirza, Sabah <Mirza.Sabah@epa.gov>; Tran, Victoria <tran.victoria@epa.gov>  
**Subject:** FW: OW-OECA COVID19 Flexibilities and PrioritiesCLEAN4.17.2020 (003).docx  
**Importance:** High

Ex. 5 Deliberative Process (DP)

---

**From:** Ross, David P <ross.davidp@epa.gov>  
**Sent:** Friday, April 17, 2020 3:38 PM  
**To:** Bodine, Susan <bodine.susan@epa.gov>  
**Cc:** Kramer, Jessica L. <kramer.jessical@epa.gov>; Wildeman, Anna <wildeman.anna@epa.gov>  
**Subject:** FW: OW-OECA COVID19 Flexibilities and PrioritiesCLEAN4.17.2020 (003).docx

Thanks for your help on this. I really appreciate it. We addressed the remaining comments your team had, accepting many but not all of the suggested edits.

Ex. 5 Deliberative Process (DP)

Ex. 5 Deliberative Process (DP)

Thanks!

Regards,

Dave

---

**From:** Ross, David P  
**Sent:** Friday, April 17, 2020 2:36 PM  
**To:** adm15.arwheeler.email <adm15.arwheeler.email@epa.gov>  
**Cc:** Benevento, Douglas <benevento.douglas@epa.gov>; Gunasekara, Mandy <gunasekara.Mandy@epa.gov>; Molina, Michael <molina.michael@epa.gov>; Bodine, Susan <bodine.susan@epa.gov>; Leopold, Matt (OGC) <Leopold.Matt@epa.gov>; Bolen, Brittany <bolen.brittany@epa.gov>; Brazauskas, Joseph <brazauskas.joseph@epa.gov>  
**Subject:** OW-OECA COVID19 Flexibilities and PrioritiesCLEAN4.17.2020 (003).docx



Administrator,

Here is a draft joint OW/OECA flexibilities memo for the water sector

**Ex. 5 Deliberative Process (DP)**

# **Ex. 5 Deliberative Process (DP)**

Susan and I are happy to answer any questions you may have, and can provide a deeper briefing on the overall work product if desired.

Thanks.

Dave

**To:** Bohan, Suzanne[bohan.suzanne@epa.gov]; ECAD Directors and Deputies-Designees[ECAD\_Directors\_and\_Deputies-Designees@epa.gov]; Regional Counsels and Deputies[Regional\_Counsels\_and\_Deputies@epa.gov]  
**Cc:** Bodine, Susan[bodine.susan@epa.gov]; Starfield, Lawrence[Starfield.Lawrence@epa.gov]; Koslow, Karin[Koslow.Karin@epa.gov]; Johnson, Kathleen[Johnson.Kathleen@epa.gov]; Wilwerding, Joseph[Wilwerding.Joseph@epa.gov]; Dean, Abigail[Dean.Abigail@epa.gov]; Porter, Amy[Porter.Amy@epa.gov]; OCE DIVISION DIRECTORS AND ASSOCIATE DIRECTORS[OCEDIVISIONDIRECTORSANDASSOCIATEDIRECTORS@epa.gov]  
**From:** Kelley, Rosemarie/O=EXCHANGELABS/OU=EXCHANGE ADMINISTRATIVE GROUP (FYDIBOHF23SPDLT)/CN=RECIPIENTS/CN=23B7C900323047FCA012DF62C58C4D22-RKELLEY]  
**Sent:** Wed 4/15/2020 4:50:14 PM (UTC)  
**Subject:** RE: ACTION: Review Path Forward Doc for Today's COVID-19 Call  
[path forward.04 14 20v2.2.docx](#)

ED/RC Colleagues:

Attached is an updated version of the memo. I added some language that I had inadvertently removed in paragraph f. (in the list of considerations). The document is otherwise the same as the version I sent last evening.

Rosemarie

---

**From:** Kelley, Rosemarie  
**Sent:** Tuesday, April 14, 2020 9:20 PM  
**To:** Bohan, Suzanne <bohan.suzanne@epa.gov>; ECAD Directors and Deputies-Designees <ECAD\_Directors\_and\_Deputies-Designees@epa.gov>; Regional Counsels and Deputies <Regional\_Counsels\_and\_Deputies@epa.gov>  
**Cc:** Bodine, Susan <bodine.susan@epa.gov>; Starfield, Lawrence <Starfield.Lawrence@epa.gov>; Koslow, Karin <Koslow.Karin@epa.gov>; Johnson, Kathleen <Johnson.Kathleen@epa.gov>; Wilwerding, Joseph <Wilwerding.Joseph@epa.gov>; Dean, Abigail <Dean.Abigail@epa.gov>; Amy Porter (Porter.Amy@epa.gov) <Porter.Amy@epa.gov>; OCE DIVISION DIRECTORS AND ASSOCIATE DIRECTORS <OCEDIVISIONDIRECTORSANDASSOCIATEDIRECTORS@epa.gov>  
**Subject:** RE: ACTION: Review Path Forward Doc for Today's COVID-19 Call

Deliberative/ Enforcement Confidential

ED/RC Colleagues:

Attached for your review is the latest draft of the **Ex. 5 Deliberative Process (DP)**  
Tomorrow's COVID-19 call will be the final opportunity to gather any remaining feedback you have on this memo. The plan is to issue this communication this week. Thanks.

Rosemarie

---

**From:** Bohan, Suzanne <bohan.suzanne@epa.gov>  
**Sent:** Wednesday, April 08, 2020 1:23 PM  
**To:** ECAD Directors and Deputies-Designees <ECAD\_Directors\_and\_Deputies-Designees@epa.gov>; Regional Counsels and Deputies <Regional\_Counsels\_and\_Deputies@epa.gov>  
**Cc:** Bodine, Susan <bodine.susan@epa.gov>; Starfield, Lawrence <Starfield.Lawrence@epa.gov>; Kelley, Rosemarie <Kelley.Rosemarie@epa.gov>; Koslow, Karin <Koslow.Karin@epa.gov>; Johnson, Kathleen <Johnson.Kathleen@epa.gov>; Wilwerding, Joseph <Wilwerding.Joseph@epa.gov>; Dean, Abigail <Dean.Abigail@epa.gov>  
**Subject:** ACTION: Review Path Forward Doc for Today's COVID-19 Call  
**Importance:** High

Deliberative/ Enforcement Confidential

ED/RC Colleagues:

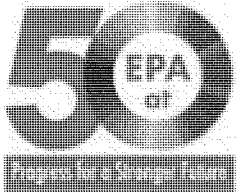
Attached for your review is the working draft of the **Ex. 5 Deliberative Process (DP)**  
 We have 20 minutes set aside on today's COVID-19 call to discuss the path forward and gather your feedback on this memo.

Suzanne

*Suzanne J. Bohan, Director  
Enforcement and Compliance Assurance Division*

*U.S. EPA, Region 8*  
*1595 Wynkoop Street*  
*Denver, CO 80202*  
*303.312.6925*  
[Bohan.suzanne@epa.gov](mailto:Bohan.suzanne@epa.gov)

Twitter: [@EPARegion8](#)  
Facebook: [U.S. EPA Region 8](#)  
Webpage: [EPA Region 8 \(Mountains and Plains\)](#)



**To:** Bodine, Susan[bodine.susan@epa.gov]  
**Cc:** Mirza, Sabah[Mirza.Sabah@epa.gov]  
**From:** Shiffman, Cari[/O=EXCHANGELABS/OU=EXCHANGE ADMINISTRATIVE GROUP (FYDIBOHF23SPDLT)/CN=RECIPIENTS/CN=645F74D11EEC4EBA9337CB5734AD6098-SHIFFMAN, CARI]  
**Sent:** Thur 4/16/2020 11:30:29 PM (UTC)  
**Subject:** RE: OW-OECA COVID19 Flexibilities and Priorities 4-16-2020OWresponsetoOECA (002).docx  
OW-OECA COVID19 Flexibilities and Priorities (DRAFT DO NOT RELEASE 4-16-2020).docx

Susan,

Here you go. I fixed one of Peter’s hyperlink questions so just left in the OGC one.

**Ex. 5 Deliberative Process (DP)**

**Ex. 5 Deliberative Process (DP)**

Thanks,

Cari Shiffman, Chief of Staff  
U.S. Environmental Protection Agency  
Office of Enforcement and Compliance Assurance  
Office: (202) 564-2898 | Mobile: **Ex. 6 Personal Privacy (PP)**

---

**From:** Bodine, Susan <bodine.susan@epa.gov>  
**Sent:** Thursday, April 16, 2020 5:26 PM  
**To:** Shiffman, Cari <Shiffman.Cari@epa.gov>  
**Cc:** Mirza, Sabah <Mirza.Sabah@epa.gov>  
**Subject:** FW: OW-OECA COVID19 Flexibilities and Priorities 4-16-2020OWresponsetoOECA (002).docx

Could you review this document and set it up as if final?  
You can delete the bubble comments except for the hyperlink notes.  
It will have to go on Agency letterhead.

---

**From:** Ross, David P <ross.davidp@epa.gov>  
**Sent:** Thursday, April 16, 2020 5:23 PM  
**To:** Bodine, Susan <bodine.susan@epa.gov>; Leopold, Matt (OGC) <Leopold.Matt@epa.gov>  
**Cc:** McLain, Jennifer L. <McLain.Jennifer@epa.gov>; Goodin, John <Goodin.John@epa.gov>; Bertrand, Charlotte <Bertrand.Charlotte@epa.gov>; Nagle, Deborah <Nagle.Deborah@epa.gov>; Sawyers, Andrew <Sawyers.Andrew@epa.gov>; Wildeman, Anna <wildeman.anna@epa.gov>; Forsgren, Lee <Forsgren.Lee@epa.gov>; McDonough, Owen <mcdonough.owen@epa.gov>; Kramer, Jessica L. <kramer.jessical@epa.gov>; Aguirre, Janita <Aguirre.Janita@epa.gov>; Mejias, Melissa <mejias.melissa@epa.gov>; Fotouhi, David <Fotouhi.David@epa.gov>; Pollins, Mark <Pollins.Mark@epa.gov>; Irving, John <Irving.John@epa.gov>; Shiffman, Cari <Shiffman.Cari@epa.gov>  
**Subject:** RE: OW-OECA COVID19 Flexibilities and Priorities 4-16-2020OWresponsetoOECA (002).docx

Thanks Susan. That would be wonderful if your COS could do that review, to keep things consistent with your memo. Thanks!

Regards,

Dave

---

**From:** Bodine, Susan <bodine.susan@epa.gov>  
**Sent:** Thursday, April 16, 2020 4:20 PM  
**To:** Ross, David P <ross.davidp@epa.gov>; Leopold, Matt (OGC) <Leopold.Matt@epa.gov>  
**Cc:** McLain, Jennifer L. <McLain.Jennifer@epa.gov>; Goodin, John <Goodin.John@epa.gov>; Bertrand, Charlotte <Bertrand.Charlotte@epa.gov>; Nagle, Deborah <Nagle.Deborah@epa.gov>; Sawyers, Andrew <Sawyers.Andrew@epa.gov>; Wildeman, Anna <wildeman.anna@epa.gov>; Forsgren, Lee <Forsgren.Lee@epa.gov>; McDonough, Owen <mcdonough.owen@epa.gov>; Kramer, Jessica L. <kramer.jessical@epa.gov>; Aguirre, Janita <Aguirre.Janita@epa.gov>; Mejias, Melissa <mejias.melissa@epa.gov>; Fotouhi, David <Fotouhi.David@epa.gov>; Pollins, Mark <Pollins.Mark@epa.gov>; Irving, John <Irving.John@epa.gov>; Shiffman, Cari <Shiffman.Cari@epa.gov>  
**Subject:** RE: OW-OECA COVID19 Flexibilities and Priorities 4-16-2020OWresponsetoOECA (002).docx

signature. I can ask my chief of staff to do that now if you want that before OMB review.

Susan

---

**From:** Ross, David P <[ross.davidp@epa.gov](mailto:ross.davidp@epa.gov)>

**Sent:** Thursday, April 16, 2020 2:03 PM

**To:** Bodine, Susan <[bodine.susan@epa.gov](mailto:bodine.susan@epa.gov)>; Leopold, Matt (OGC) <[Leopold.Matt@epa.gov](mailto:Leopold.Matt@epa.gov)>

**Cc:** McLain, Jennifer L. <[McLain.Jennifer@epa.gov](mailto:McLain.Jennifer@epa.gov)>; Goodin, John <[Goodin.John@epa.gov](mailto:Goodin.John@epa.gov)>; Bertrand, Charlotte <[Bertrand.Charlotte@epa.gov](mailto:Bertrand.Charlotte@epa.gov)>; Nagle, Deborah <[Nagle.Deborah@epa.gov](mailto:Nagle.Deborah@epa.gov)>; Sawyers, Andrew <[Sawyers.Andrew@epa.gov](mailto:Sawyers.Andrew@epa.gov)>; Wildeman, Anna <[wildeman.anna@epa.gov](mailto:wildeman.anna@epa.gov)>; Forsgren, Lee <[Forsgren.Lee@epa.gov](mailto:Forsgren.Lee@epa.gov)>; McDonough, Owen <[mcdonough.owen@epa.gov](mailto:mcdonough.owen@epa.gov)>; Kramer, Jessica L. <[kramer.jessical@epa.gov](mailto:kramer.jessical@epa.gov)>; Aguirre, Janita <[Aguirre.Janita@epa.gov](mailto:Aguirre.Janita@epa.gov)>; Mejias, Melissa <[mejias.melissa@epa.gov](mailto:mejias.melissa@epa.gov)>; Fotouhi, David <[Fotouhi.David@epa.gov](mailto:Fotouhi.David@epa.gov)>

**Subject:** OW-OECA COVID19 Flexibilities and Priorities 4-16-2020OWresponsetoOECA (002).docx

Deliberative/Confidential

Susan,

Here is the latest draft. We've addressed OECA's edits and concerns, but let us know if you have any remaining issues.

## Ex. 5 Deliberative Process (DP)

I'd like to get this to the Administrator and Doug right away to begin the final clearance process on this, hopefully tomorrow morning. Please let me know if you have any final edits. By this email, I'm asking the same of my senior leadership team.

Thanks all for the work on this.

Dave

**To:** Benevento, Douglas[benevento.douglas@epa.gov]; Bodine, Susan[bodine.susan@epa.gov]  
**From:** Walker, Mary[/O=EXCHANGELABS/OU=EXCHANGE ADMINISTRATIVE GROUP (FYDIBOHF23SPDLT)/CN=RECIPIENTS/CN=WALKER, MARY S.]  
**Sent:** Tue 3/31/2020 4:32:52 PM (UTC)  
**Subject:** FW: EPA Enforcement Memo - COVID 19  
[BOE COVID Guidance 03.26.2020.pdf](#)

FYI

---

**From:** Greg Young <Greg.Young@tn.gov>  
**Sent:** Tuesday, March 31, 2020 12:19 PM  
**To:** Walker, Mary <walker.mary@epa.gov>  
**Cc:** David Salyers <david.salyers@tn.gov>; Jenny Howard <Jenny.Howard@tn.gov>  
**Subject:** RE: EPA Enforcement Memo - COVID 19

Mary,

Thank you very much for sending this helpful guidance. We appreciate EPA’s recognition of these extraordinary times and working to balance regulatory discretion with continued environmental protection. In this regard, I am attaching our own TDEC Bureau of Environment COVID-19 guidance. If you have any questions, please do not hesitate to reach out to me or Commissioner Salyers.

Greg



Gregory T. Young  
Deputy Commissioner, Bureau of Environment  
615-532-7751 (office)  
615-693-1363 (cell)  
[greg.young@tn.gov](mailto:greg.young@tn.gov)

---

**From:** Walker, Mary [<mailto:walker.mary@epa.gov>]  
**Sent:** Thursday, March 26, 2020 2:23 PM  
**To:** Lance R. LeFleur; Marilyn Elliot; Noah Valenstein; John Truitt; Richard Dunn; Lauren Curry; Charles Snively; [tony.hatton@ky.gov](mailto:tony.hatton@ky.gov); [sean.alteri@ky.gov](mailto:sean.alteri@ky.gov); Gary Rikard; Chris Wells; Chris Sanders; Michael Regan; Sheila Holman; [reecemc@dhec.sc.gov](mailto:reecemc@dhec.sc.gov); [teresa.higgins@dhec.sc.gov](mailto:teresa.higgins@dhec.sc.gov); David Salyers; Greg Young; Hannah Nodell; Elaine Boyd; Laura Cranage; Tori Deal; [Carla.Gaskin@dep.state.fl.us](mailto:Carla.Gaskin@dep.state.fl.us); Tamara Fischer; Eve Roberts; Denise Profitt; Jill Bailey; Kathleen Lance; Renee Baecker; [stephens@dhec.dc.gov](mailto:stephens@dhec.dc.gov); Kelley Clemons  
**Cc:** Ashbee, Blake; Banister, Beverly; Jenkins, Brandi; Wise, Allison; Johnson, Belinda; Monell, Carol; Gettle, Jeaneanne; Kemker, Carol; Palmer, Leif; Mitchell, Ken; Tellis, Vickie; Wyatt, Marc; Zapata, Cesar; Blevins, John; Jones, Aaryn; Johnson, Belinda  
**Subject:** [EXTERNAL] EPA Enforcement Memo - COVID 19

\*\*\* This is an EXTERNAL email. Please exercise caution. DO NOT open attachments or click links from unknown senders or unexpected email - STS-Security. \*\*\*

State Commissioners,

Thank you for your time on this afternoon’s call. Susan Bodine’s memo on COVID-19 considerations for enforcement programs has now been released. A copy of the memo is attached.

Please reach out to Carol Kemker and/or Leif Palmer with any questions you may have on this memo. And please contact me or any of us with any questions or needs you may have during this period.

Best regards,  
Mary

Mary Salmon Walker Regional Administrator

US Environmental Protection Agency, Region 4  
61 Forsyth Street, SW  
Atlanta, GA 30303  
Tel: (404) 562-8357

**To:** Bodine, Susan[bodine.susan@epa.gov]  
**Cc:** Starfield, Lawrence[Starfield.Lawrence@epa.gov]; Irving, John[Irving.John@epa.gov]; Shiffman, Cari[Shiffman.Cari@epa.gov]; Branning, Hannah[Branning.Hannah@epa.gov]  
**From:** Mirza, Sabah[/O=EXCHANGELABS/OU=EXCHANGE ADMINISTRATIVE GROUP (FYDIBOHF23SPDLT)/CN=RECIPIENTS/CN=816BF1F9B67D4892BDAC00DE2EABDA3F-MIRZA, SABAH]  
**Sent:** Mon 5/18/2020 8:22:55 PM (UTC)  
**Subject:** COVID-19 Implications for Signing Paper Hazardous Waste Manifests  
COVID-19 Manifest Signature Temporary Policy 5-18-20 Final For Signature.pdf

Hi Susan,

Please see attached – OLEM requested for you to sign first and then Peter will sign. It’s in PDF, so you would need to sign electronically from your side.

Please let me know if you have any questions.

Thanks,  
Sabah

~~~~~  
Sabah Mirza, Special Assistant  
Office of Enforcement and Compliance Assurance  
U.S. Environmental Protection Agency  
1200 Pennsylvania Avenue NW, 3207E WJC South  
Washington, DC 20460  
Office: 202-564-8176



**To:** Theis, Joseph[Theis.Joseph@epa.gov]; Bodine, Susan[bodine.susan@epa.gov]  
**Cc:** Starfield, Lawrence[Starfield.Lawrence@epa.gov]; Irving, John[Irving.John@epa.gov]; Hull, George[Hull.George@epa.gov]; Egan, Patrick[egan.patrick@epa.gov]; Kelley, Rosemarie[Kelley.Rosemarie@epa.gov]; Koslow, Karin[Koslow.Karin@epa.gov]; Pollins, Mark[Pollins.Mark@epa.gov]; Denton, Loren[Denton.Loren@epa.gov]; Bahk, Benjamin[Bahk.Benjamin@epa.gov]; King, Carol[King.Carol@epa.gov]; Holmes, Carol[Holmes.Carol@epa.gov]; Fogarty, Johnpc[Fogarty.Johnpc@epa.gov]  
**From:** Baptista, Chrisna[O=EXCHANGELABS/OU=EXCHANGE ADMINISTRATIVE GROUP (FYDIBOHF23SPDLT)/CN=RECIPIENTS/CN=C319D331D35B4110BC6584B4557BC561-TAN, CHRISNA]  
**Sent:** Wed 4/22/2020 10:24:47 PM (UTC)  
**Subject:** RE: OW Press Release/Comms Plan for COVID-19 Water Guidance  
OW OECA Memo Comms Plan 4-20-2020 ctb.docx

Reattaching as word document in case the SharePoint file doesn't work for all.

Chrisna Baptista, Attorney-Adviser  
Office of Civil Enforcement  
Phone: (202) 564-4272  
E-mail: [baptista.chrisna@epa.gov](mailto:baptista.chrisna@epa.gov)

---

**From:** Theis, Joseph <Theis.Joseph@epa.gov>  
**Sent:** Wednesday, April 22, 2020 5:56 PM  
**To:** Bodine, Susan <bodine.susan@epa.gov>  
**Cc:** Starfield, Lawrence <Starfield.Lawrence@epa.gov>; Irving, John <Irving.John@epa.gov>; Hull, George <Hull.George@epa.gov>; Egan, Patrick <egan.patrick@epa.gov>; Kelley, Rosemarie <Kelley.Rosemarie@epa.gov>; Koslow, Karin <Koslow.Karin@epa.gov>; Pollins, Mark <Pollins.Mark@epa.gov>; Denton, Loren <Denton.Loren@epa.gov>; Bahk, Benjamin <Bahk.Benjamin@epa.gov>; Baptista, Chrisna <Baptista.Chrisna@epa.gov>; King, Carol <King.Carol@epa.gov>; Holmes, Carol <Holmes.Carol@epa.gov>; Fogarty, Johnpc <Fogarty.Johnpc@epa.gov>  
**Subject:** FW: OW Press Release/Comms Plan for COVID-19 Water Guidance

Susan,  
See our proposed revisions/comments/questions on the OW draft of the Communications Plan for the Covid-19 Water Guidance. In particular, we wanted to make sure our proposed response to question #5 was in line with what you were thinking. Per George's suggestion below, I have reached out to Christine Wadlington in OW and left her a voicemail asking whether OW was drafting any specific questions on regulatory flexibility to be included in the Q and As, and to touch base on the process going forward.

Let us know your thoughts on the document and whether you have any additional information on timing etc.

Thanks,  
- Joe

Joseph G. Theis  
Associate Director  
Water Enforcement Division  
Office of Enforcement and Compliance Assurance  
U.S. EPA (2243A)  
1200 Pennsylvania Ave, NW  
Washington, D.C. 20460  
(202)564-4053

This email may contain deliberative, attorney-client, attorney work product or otherwise privileged material. Do not release under FOIA without appropriate review. If this email has been received by you in error, you are instructed to delete it from your machine and all storage media whether electronic or hard copy.

---

**From:** Hull, George <Hull.George@epa.gov>  
**Sent:** Wednesday, April 22, 2020 5:08 PM  
**To:** Baptista, Chrisna <[Baptista.Chrisna@epa.gov](mailto:Baptista.Chrisna@epa.gov)>  
**Cc:** Theis, Joseph <Theis.Joseph@epa.gov>  
**Subject:** RE: OW Press Release/Comms Plan for COVID-19 Water Guidance

Chrisna and Joe,

I heard back from my counterpart in OW, David Risley, he said that the memo is being reviewed at the White House and that he thinks leadership will want to get it out the next day after the White House finishes its review. The problem is that they don't know when that will happen. I think we probably don't have much time to get our edits back to them on the communications plan. He recommended Christina Wadlington as an OW contact for you. – George

---

**From:** Hull, George  
**Sent:** Wednesday, April 22, 2020 1:39 PM  
**To:** Baptista, Chrisna <[Baptista.Chrisna@epa.gov](mailto:Baptista.Chrisna@epa.gov)>  
**Cc:** Theis, Joseph <[Theis.Joseph@epa.gov](mailto:Theis.Joseph@epa.gov)>  
**Subject:** RE: OW Press Release/Comms Plan for COVID-19 Water Guidance

Yes, Chrisna. Per our phone conversation, I've reached out to my counterpart in OW to ask both those questions. I'll circle back with you and Joe as soon as I have an answer. - George

---

**From:** Baptista, Chrisna <[Baptista.Chrisna@epa.gov](mailto:Baptista.Chrisna@epa.gov)>  
**Sent:** Wednesday, April 22, 2020 1:37 PM  
**To:** Hull, George <[Hull.George@epa.gov](mailto:Hull.George@epa.gov)>  
**Cc:** Theis, Joseph <[Theis.Joseph@epa.gov](mailto:Theis.Joseph@epa.gov)>  
**Subject:** RE: OW Press Release/Comms Plan for COVID-19 Water Guidance

Hi George,

Thanks for chatting earlier. Just confirming that you'll pass back along a contact for Joe to reach out to in OW and also let us know that the deadline is for comments on the OW press release/communications plan?

Thanks again,

Chrisna Baptista, Attorney-Adviser  
Office of Civil Enforcement  
Phone: (202) 564-4272  
E-mail: [baptista.chrisna@epa.gov](mailto:baptista.chrisna@epa.gov)

---

**From:** Pollins, Mark <[Pollins.Mark@epa.gov](mailto:Pollins.Mark@epa.gov)>  
**Sent:** Wednesday, April 22, 2020 11:45 AM  
**To:** Bahk, Benjamin <[Bahk.Benjamin@epa.gov](mailto:Bahk.Benjamin@epa.gov)>; King, Carol <[King.Carol@epa.gov](mailto:King.Carol@epa.gov)>; Denton, Loren <[Denton.Loren@epa.gov](mailto:Denton.Loren@epa.gov)>;  
Bahk, Benjamin <[Bahk.Benjamin@epa.gov](mailto:Bahk.Benjamin@epa.gov)>; Baptista, Chrisna <[Baptista.Chrisna@epa.gov](mailto:Baptista.Chrisna@epa.gov)>  
**Subject:** FW: OW Press Release/Comms Plan for COVID-19 Water Guidance

Mark Pollins, Director  
Water Enforcement Division  
Office of Civil Enforcement  
Office of Enforcement and Compliance Assurance (OECA)  
U.S. Environmental Protection Agency  
Phone: (202) 564-4001  
Fax: (202) 564-0018

---

**From:** Kelley, Rosemarie <[Kelley.Rosemarie@epa.gov](mailto:Kelley.Rosemarie@epa.gov)>  
**Sent:** Wednesday, April 22, 2020 11:41 AM  
**To:** Pollins, Mark <[Pollins.Mark@epa.gov](mailto:Pollins.Mark@epa.gov)>; Theis, Joseph <[Theis.Joseph@epa.gov](mailto:Theis.Joseph@epa.gov)>; Holmes, Carol <[Holmes.Carol@epa.gov](mailto:Holmes.Carol@epa.gov)>;  
Fogarty, Johnpc <[Fogarty.Johnpc@epa.gov](mailto:Fogarty.Johnpc@epa.gov)>  
**Cc:** Porter, Amy <[Porter.Amy@epa.gov](mailto:Porter.Amy@epa.gov)>; Koslow, Karin <[Koslow.Karin@epa.gov](mailto:Koslow.Karin@epa.gov)>  
**Subject:** FW: OW Press Release/Comms Plan for COVID-19 Water Guidance

ED\_004611F\_00003135-00002

OECA COVID-19 2020  
FOIAs\_Production006

All –

Please take a look at Susan's email and OW's comms plan.

Rosemarie

---

**From:** Bodine, Susan <[bodine.susan@epa.gov](mailto:bodine.susan@epa.gov)>  
**Sent:** Wednesday, April 22, 2020 11:39 AM  
**To:** Hull, George <[Hull.George@epa.gov](mailto:Hull.George@epa.gov)>; Starfield, Lawrence <[Starfield.Lawrence@epa.gov](mailto:Starfield.Lawrence@epa.gov)>; Irving, John <[Irving.John@epa.gov](mailto:Irving.John@epa.gov)>; Koslow, Karin <[Koslow.Karin@epa.gov](mailto:Koslow.Karin@epa.gov)>; Kelley, Rosemarie <[Kelley.Rosemarie@epa.gov](mailto:Kelley.Rosemarie@epa.gov)>  
**Cc:** Egan, Patrick <[egan.patrick@epa.gov](mailto:egan.patrick@epa.gov)>  
**Subject:** RE: OW Press Release/Comms Plan for COVID-19 Water Guidance

OCE, please review carefully.

## Ex. 5 Deliberative Process (DP)

---

**From:** Hull, George <[Hull.George@epa.gov](mailto:Hull.George@epa.gov)>  
**Sent:** Wednesday, April 22, 2020 11:28 AM  
**To:** Bodine, Susan <[bodine.susan@epa.gov](mailto:bodine.susan@epa.gov)>; Starfield, Lawrence <[Starfield.Lawrence@epa.gov](mailto:Starfield.Lawrence@epa.gov)>; Irving, John <[Irving.John@epa.gov](mailto:Irving.John@epa.gov)>; Koslow, Karin <[Koslow.Karin@epa.gov](mailto:Koslow.Karin@epa.gov)>; Kelley, Rosemarie <[Kelley.Rosemarie@epa.gov](mailto:Kelley.Rosemarie@epa.gov)>  
**Cc:** Egan, Patrick <[egan.patrick@epa.gov](mailto:egan.patrick@epa.gov)>  
**Subject:** OW Press Release/Comms Plan for COVID-19 Water Guidance

Susan, Larry, John, Rosemarie and Karin,

FYI - Please find attached a draft press release and communications plan from OW announcing Ex. 5 Deliberative Process (DP)

## Ex. 5 Deliberative Process (DP)

**To:** Koslow, Karin[Koslow.Karin@epa.gov]; Bodine, Susan[bodine.susan@epa.gov]; Starfield, Lawrence[Starfield.Lawrence@epa.gov]; Irving, John[Irving.John@epa.gov]  
**Cc:** Kelley, Rosemarie[Kelley.Rosemarie@epa.gov]; Porter, Amy[Porter.Amy@epa.gov]  
**From:** Holmes, Carol[/O=EXCHANGELABS/OU=EXCHANGE ADMINISTRATIVE GROUP (FYDIBOHF23SPDLT)/CN=RECIPIENTS/CN=A63F745584114AE9B119547A4DC845FD-HOLMES, CAROL]  
**Sent:** Thur 5/28/2020 11:31:59 AM (UTC)  
**Subject:** RE: OAR declaration - comments due by noon Thursday  
**FW:** [AA Roles in Response to Petition for Emergency Rulemaking](#)  
**RE:** [AA Roles in Response to Petition for Emergency Rulemaking](#)  
[704A84F7934B94A58AF80CC0796EA7BA.05.20.2020-wheeler-testimony.pdf](#)

Thanks for forwarding Karin.

I've attached the responses that OGC received from OLEM and OW. **Ex. 5 Deliberative Process (DP)**

# Ex. 5 Deliberative Process (DP)

Thanks, Carol

May contain sensitive communication for internal deliberations only, attorney-client communication, attorney work product, and/or enforcement sensitive information. Do not distribute outside the U.S. Government.

---

Carol S. Holmes  
Senior Counsel  
Crosscutting Policy Staff  
Office of Civil Enforcement (MC 2241A)  
U.S. Environmental Protection Agency  
1200 Pennsylvania Ave, NW  
Washington, DC 20460  
Phone (202) 564-8709

---

---

**From:** Koslow, Karin <Koslow.Karin@epa.gov>  
**Sent:** Wednesday, May 27, 2020 11:27 PM  
**To:** Bodine, Susan <bodine.susan@epa.gov>; Starfield, Lawrence <Starfield.Lawrence@epa.gov>; Irving, John <Irving.John@epa.gov>  
**Cc:** Kelley, Rosemarie <Kelley.Rosemarie@epa.gov>; Holmes, Carol <Holmes.Carol@epa.gov>; Porter, Amy <Porter.Amy@epa.gov>  
**Subject:** OAR declaration - comments due by noon Thursday  
**Importance:** High

# Ex. 5 Deliberative Process (DP)

**OGC has asked for our comments by noon.** For ease of consolidating comments, I've attached a One Drive version – if you have technical challenges, the same document is attached as an old school, Word doc.

Thanks,  
Karin

Karin Koslow  
Deputy Director, Office of Civil Enforcement  
Office of Enforcement and Compliance Assurance  
U.S. Environmental Protection Agency  
Desk: (202) 564-0171

Ex. 6 Personal Privacy (PP)

WJC South Room 3142D

**To:** Harlow, David[harlow.david@epa.gov]  
**Cc:** Talty, Mark[Talty.Mark@epa.gov]  
**From:** Forsgren, Lee[/O=EXCHANGELABS/OU=EXCHANGE ADMINISTRATIVE GROUP (FYDIBOHF23SPDLT)/CN=RECIPIENTS/CN=A055D7329D5B470FBAA9920CE1B68A7D-FORSGREN, D]  
**Sent:** Wed 5/27/2020 12:08:50 PM (UTC)  
**Subject:** FW: AA Roles in Response to Petition for Emergency Rulemaking

DELIBERATIVE; INTERNAL

Good morning David,

First off let me apologize. This should have been sent to you last night. There was a mix up in transmitting . That is on me . We hope you have not been slowed too much.

Please see below in bold OWs response to the request. Please call me at 202-578-7458 if you have any questions.

# Ex. 5 Deliberative Process (DP)

OW has a significant resource investment in addressing COVID-19 issues – these are the same human capital resources that would need to dedicate time to support any type of COVID emergency rulemaking.

# Ex. 5 Deliberative Process (DP)

# Ex. 5 Deliberative Process (DP)

Regards,  
Lee

**D. Lee Forsgren**  
Deputy Assistant Administrator  
Office of Water  
Environmental Protection Agency  
1200 Pennsylvania, Avenue NW  
Room 3219B WJC East Building  
Washington, DC 20460  
202-564-5700

**From:** Leopold, Matt (OGC) <Leopold.Matt@epa.gov>

**Sent:** Friday, May 22, 2020 10:33 AM

**To:** Bodine, Susan <bodine.susan@epa.gov>; Idsal, Anne <idsal.anne@epa.gov>; Wright, Peter <wright.peter@epa.gov>; Dunn, Alexandra <dunn.alexandra@epa.gov>; Ross, David P <ross.davidp@epa.gov>

**Cc:** Payne, James <payne.james@epa.gov>; Starfield, Lawrence <Starfield.Lawrence@epa.gov>; Fotouhi, David <Fotouhi.David@epa.gov>; Simons, Andrew <Simons.Andrew@epa.gov>; Talty, Mark <Talty.Mark@epa.gov>; Gustafson, Adam <Gustafson.Adam@epa.gov>; Harlow, David <harlow.david@epa.gov>; Wildeman, Anna <wildeman.anna@epa.gov>; Cook, Steven <cook.steven@epa.gov>; Fischer, David <Fischer.David@epa.gov>; Irving, John <Irving.John@epa.gov>; Benevento, Douglas <benevento.douglas@epa.gov>; Gunasekara, Mandy <gunasekara.Mandy@epa.gov>

**Subject:** RE: AA Roles in Response to Petition for Emergency Rulemaking

As a follow-up to Susan's email, OAR has volunteered to coordinate and lead the Agency's review of the petition, consistent with the Administrator's direction. To assist in that effort, we are asking that each of your offices send the following preliminary information to OAR by Tuesday (5/26):

# Ex. 5 Deliberative Process (DP)

You should provide this initial information to David Harlow in OAR, copied here. Please also copy Mark Talty of my staff when

sending the requested information.

Thank you, Matt

**Matthew Z. Leopold**

General Counsel

U.S. Environmental Protection Agency

Office: (202) 564-8040

Ex. 6 Personal Privacy (PP)

**From:** Bodine, Susan <bodine.susan@epa.gov>

**Sent:** Wednesday, May 20, 2020 5:27 PM

**To:** Idsal, Anne <idsal.anne@epa.gov>; Wright, Peter <wright.peter@epa.gov>; Dunn, Alexandra <dunn.alexandra@epa.gov>; Ross, David P <ross.davidp@epa.gov>

**Cc:** Leopold, Matt (OGC) <Leopold.Matt@epa.gov>; Payne, James <payne.james@epa.gov>; Starfield, Lawrence <Starfield.Lawrence@epa.gov>; Fotouhi, David <Fotouhi.David@epa.gov>

**Subject:** AA Roles in Response to Petition for Emergency Rulemaking

**Importance:** High

Colleagues,

As you know, on March 26, 2020, I issued a memorandum titled "COVID-19 Implications for EPA's Enforcement and Compliance Assurance Program," which set forth the Agency's temporary policy covering potential noncompliance resulting from the COVID-19 public health emergency. On April 1<sup>st</sup>, the Natural Resource Defense Council, along with several other groups, submitted the attached petition for emergency rulemaking.

The petition requests EPA to issue a final, enforceable rule (via interim final rule procedures without prior notice and comment) requiring:

- Any regulated entity that, for reasons related to COVID-19, fails to comply with required monitoring, reporting, testing, sampling, inspection, or certification (as broadly contemplated in EPA's non-enforcement policy at page 3), to notify EPA and the relevant state and regulatory authorities immediately, in writing and submitted electronically;
- EPA to promptly publish online an electronically searchable and sortable list of all regulated entities that provide a notification under the first requirement; and
- Any regulated entity that provides a notification under the first requirement (above) to notify EPA and the relevant state and regulatory authorities immediately, in writing and submitted electronically, when it returns to compliance with the required monitoring, reporting, testing, sampling, inspection, or certification covered in its initial notification.

Due to the cross-media nature of the requested rule (e.g., the petitioners cite EPA authority under the CAA, CWA, EPCRA, SDWA, and RCRA), I am circulating the petition for review. Given the expected workload on the rulemaking offices, the Administrator has decided to designate one media NPM to lead and coordinate the Agency's review of the petition.

A decision on the Administrator's designation of a coordinating NPM is forthcoming.

### Ex. 5 Deliberative Process (DP)

#### Ex. 5 Deliberative Process (DP)

My office looks forward to working closely with your offices and the designated lead media NPM to address these issues, with advice and litigation support from OGC and DOJ.

Susan

Susan Parker Bodine

Assistant Administrator

Office of Enforcement and Compliance Assurance

202-564-2440



**To:** Wright, Peter[wright.peter@epa.gov]  
**Cc:** Leopold, Matt (OGC)[Leopold.Matt@epa.gov]; Cook, Steven[cook.steven@epa.gov]; Talty, Mark[Talty.Mark@epa.gov]; Fotouhi, David[Fotouhi.David@epa.gov]; Breen, Barry[Breen.Barry@epa.gov]  
**From:** Harlow, David[/O=EXCHANGELABS/OU=EXCHANGE ADMINISTRATIVE GROUP (FYDIBOHF23SPDLT)/CN=RECIPIENTS/CN=B5A9A34E31FC4FE6B2BEADDDA2AFFA44-HARLOW, DAV]  
**Sent:** Wed 5/27/2020 12:36:04 PM (UTC)  
**Subject:** RE: AA Roles in Response to Petition for Emergency Rulemaking

Peter,

I thank you for this information.

David S. Harlow  
Senior Counsel  
Office of Air and Radiation, USEPA  
WJC-N Room 5409K  
1200 Pennsylvania Avenue NW  
Washington, DC 20460  
202-564-1233  
[Harlow.David@epa.gov](mailto:Harlow.David@epa.gov)

---

**From:** Wright, Peter <wright.peter@epa.gov>  
**Sent:** Tuesday, May 26, 2020 7:16 PM  
**To:** Harlow, David <harlow.david@epa.gov>  
**Cc:** Leopold, Matt (OGC) <Leopold.Matt@epa.gov>; Cook, Steven <cook.steven@epa.gov>; Talty, Mark <Talty.Mark@epa.gov>; Fotouhi, David <Fotouhi.David@epa.gov>; Breen, Barry <Breen.Barry@epa.gov>  
**Subject:** RE: AA Roles in Response to Petition for Emergency Rulemaking

David



# Ex. 5 Deliberative Process (DP)

Peter

**From:** Leopold, Matt (OGC) <Leopold.Matt@epa.gov>

**Sent:** Friday, May 22, 2020 10:33 AM

**To:** Bodine, Susan <bodine.susan@epa.gov>; Idsal, Anne <idsal.anne@epa.gov>; Wright, Peter <wright.peter@epa.gov>; Dunn, Alexandra <dunn.alexandra@epa.gov>; Ross, David P <ross.davidp@epa.gov>

**Cc:** Payne, James <payne.james@epa.gov>; Starfield, Lawrence <Starfield.Lawrence@epa.gov>; Fotouhi, David <Fotouhi.David@epa.gov>; Simons, Andrew <Simons.Andrew@epa.gov>; Talty, Mark <Talty.Mark@epa.gov>; Gustafson, Adam <Gustafson.Adam@epa.gov>; Harlow, David <harlow.david@epa.gov>; Wildeman, Anna <wildeman.anna@epa.gov>; Cook, Steven <cook.steven@epa.gov>; Fischer, David <Fischer.David@epa.gov>; Irving, John <Irving.John@epa.gov>; Benevento, Douglas <benevento.douglas@epa.gov>; Gunasekara, Mandy <gunasekara.Mandy@epa.gov>

**Subject:** RE: AA Roles in Response to Petition for Emergency Rulemaking

As a follow-up to Susan's email, OAR has volunteered to coordinate and lead the Agency's review of the petition, consistent with the Administrator's direction. To assist in that effort, we are asking that each of your offices send the following preliminary information to OAR by Tuesday (5/26):

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You should provide this initial information to David Harlow in OAR, copied here. Please also copy Mark Talty of my staff when sending the requested information.

Thank you, Matt

**Matthew Z. Leopold**

General Counsel

U.S. Environmental Protection Agency

Office: (202) 564-8040

Ex. 6 Personal Privacy (PP)

**From:** Bodine, Susan <bodine.susan@epa.gov>

**Sent:** Wednesday, May 20, 2020 5:27 PM

**To:** Idsal, Anne <idsal.anne@epa.gov>; Wright, Peter <wright.peter@epa.gov>; Dunn, Alexandra <dunn.alexandra@epa.gov>; Ross, David P <ross.davidp@epa.gov>

**Cc:** Leopold, Matt (OGC) <Leopold.Matt@epa.gov>; Payne, James <payne.james@epa.gov>; Starfield, Lawrence <Starfield.Lawrence@epa.gov>; Fotouhi, David <Fotouhi.David@epa.gov>

**Subject:** AA Roles in Response to Petition for Emergency Rulemaking

ED\_004611F\_00003140-00002

OECA COVID-19 2020  
FOIAs\_Production006

**Importance:** High

Colleagues,

As you know, on March 26, 2020, I issued a memorandum titled “COVID-19 Implications for EPA’s Enforcement and Compliance Assurance Program,” which set forth the Agency’s temporary policy covering potential noncompliance resulting from the COVID-19 public health emergency. On April 1<sup>st</sup>, the Natural Resource Defense Council, along with several other groups, submitted the attached petition for emergency rulemaking.

The petition requests EPA to issue a final, enforceable rule (via interim final rule procedures without prior notice and comment) requiring:

- Any regulated entity that, for reasons related to COVID-19, fails to comply with required monitoring, reporting, testing, sampling, inspection, or certification (as broadly contemplated in EPA’s non-enforcement policy at page 3), to notify EPA and the relevant state and regulatory authorities immediately, in writing and submitted electronically;
- EPA to promptly publish online an electronically searchable and sortable list of all regulated entities that provide a notification under the first requirement; and
- Any regulated entity that provides a notification under the first requirement (above) to notify EPA and the relevant state and regulatory authorities immediately, in writing and submitted electronically, when it returns to compliance with the required monitoring, reporting, testing, sampling, inspection, or certification covered in its initial notification.

Due to the cross-media nature of the requested rule (e.g., the petitioners cite EPA authority under the CAA, CWA, EPCRA, SDWA, and RCRA), I am circulating the petition for review. Given the expected workload on the rulemaking offices, the Administrator has decided to designate one media NPM to lead and coordinate the Agency’s review of the petition.

A decision on the Administrator’s designation of a coordinating NPM is forthcoming.

### **Ex. 5 Deliberative Process (DP)**


**Ex. 5 Deliberative Process (DP)** My office looks forward to working closely with your offices and the designated lead media NPM to address these issues, with advice and litigation support from OGC and DOJ.

Susan

Susan Parker Bodine  
Assistant Administrator  
Office of Enforcement and Compliance Assurance  
202-564-2440

**To:** Bodine, Susan[bodine.susan@epa.gov]; Starfield, Lawrence[Starfield.Lawrence@epa.gov]; Irving, John[Irving.John@epa.gov]  
**Cc:** Kelley, Rosemarie[Kelley.Rosemarie@epa.gov]; Holmes, Carol[Holmes.Carol@epa.gov]; Porter, Amy[Porter.Amy@epa.gov]  
**From:** Koslow, Karin[/O=EXCHANGELABS/OU=EXCHANGE ADMINISTRATIVE GROUP (FYDIBOHF23SPDLT)/CN=RECIPIENTS/CN=D00AA4F4FEAD4A3FA02F0CAFE57ED221-KOSLOW, KARIN]  
**Sent:** Thur 5/28/2020 3:27:06 AM (UTC)  
**Subject:** OAR declaration - comments due by noon Thursday  
Draft Declaration - Petition Review & Rulemaking Process v.3. 11 pm.docx

Koslow, Karin has shared a OneDrive for Business file with you. To view it, click the link below.

 Draft Declaration - Petition Review & Rulemaking Process v.3. 11 pm.docx

Susan, Larry and John – this evening we received the draft of the OAR declaration from OGC. **Ex. 5 Deliberative Process (DP)**

# Ex. 5 Deliberative Process (DP)

**OGC has asked for our comments by noon.** For ease of consolidating comments, I’ve attached a One Drive version – if you have technical challenges, the same document is attached as an old school, Word doc.

Thanks,  
Karin

Karin Koslow  
Deputy Director, Office of Civil Enforcement  
Office of Enforcement and Compliance Assurance  
U.S. Environmental Protection Agency  
Desk: (202) 564-0171  
**Ex. 6 Personal Privacy (PP)**  
WJC South Room 3142D

**To:** Bodine, Susan[bodine.susan@epa.gov]; Starfield, Lawrence[Starfield.Lawrence@epa.gov]; Irving, John[Irving.John@epa.gov]; Kelley, Rosemarie[Kelley.Rosemarie@epa.gov]; Koslow, Karin[Koslow.Karin@epa.gov]; Porter, Amy[Porter.Amy@epa.gov]; Holmes, Carol[Holmes.Carol@epa.gov]; Talty, Mark[Talty.Mark@epa.gov]; Prabhu, Aditi[Prabhu.Aditi@epa.gov]  
**Cc:** Fogarty, Johnpc[Fogarty.Johnpc@epa.gov]; Gustafson, Adam[Gustafson.Adam@epa.gov]; Payne, James[payne.james@epa.gov]  
**From:** Simons, Andrew[/O=EXCHANGELABS/OU=EXCHANGE ADMINISTRATIVE GROUP (FYDIBOHF23SPDLT)/CN=RECIPIENTS/CN=652DA36FEB75460DA864EF6504AE0F42-ASIMONS]  
**Sent:** Thur 6/11/2020 9:31:31 PM (UTC)  
**Subject:** RE: TEP Litigation  
[new york v. epa complaint filed.pdf](#)  
[Plaintiff Memo of Law re 6 8 20.pdf](#)  
[Items for Discussion re Litigation Mtg 6 12 20.docx](#)

All:

Attached is an outline to guide our discussion tomorrow (as well as the complaint and the plaintiffs’ memo of law in support of their motion for a preliminary injunction).

Looking forward to tomorrow’s meeting.

Best,

Andrew Simons  
Acting Associate General Counsel  
Cross-Cutting Issues Law Office  
U.S. Environmental Protection Agency  
Tel. 202-564-3649  
WJC-N 7526E

*CONFIDENTIALITY NOTICE: This message may contain deliberative, attorney-client, or otherwise privileged material. Do not release this message under FOLA without appropriate review. If you are not the intended recipient, or the employee or agent responsible to deliver it to the intended recipient, please contact the sender and delete all copies.*



-----Original Appointment-----

**From:** Bodine, Susan <bodine.susan@epa.gov>  
**Sent:** Monday, June 8, 2020 2:45 PM  
**To:** Bodine, Susan; Starfield, Lawrence; Irving, John; Kelley, Rosemarie; Koslow, Karin; Porter, Amy; Holmes, Carol; Simons, Andrew; Talty, Mark; Prabhu, Aditi  
**Cc:** Fogarty, Johnpc; Gustafson, Adam  
**Subject:** TEP Litigation  
**When:** Friday, June 12, 2020 1:00 PM-1:45 PM (UTC-05:00) Eastern Time (US & Canada).  
**Where:** Microsoft Teams Meeting

---

### Join Microsoft Teams Meeting

## Ex. 6 Personal Privacy (PP)

Local numbers | Reset PIN | Learn more about Teams | Meeting options

By participating in EPA hosted virtual meetings and events, you are consenting to abide by the agency's terms of use. In addition, you acknowledge that content you post may be collected and used in support of FOIA and eDiscovery activities.

---

**To:** Bodine, Susan[bodine.susan@epa.gov]  
**From:** Starfield, Lawrence[/O=EXCHANGELABS/OU=EXCHANGE ADMINISTRATIVE GROUP (FYDIBOHF23SPDLT)/CN=RECIPIENTS/CN=8A89D6CD217D4254A5879ABECB3F314E-STARFIELD, LAWRENCE]  
**Sent:** Wed 5/20/2020 12:17:31 PM (UTC)  
**Subject:** AA Roles in Response to Petition for Emergency Rulemaking  
[NGO emergency-rulemaking-20200401.pdf](#)

Susan,

**Ex. 5 AC/AWP**

Let me know if you'd like to discuss.

Larry

\*\*\*\*\*

**Ex. 5 AC/AWP**

Susan

[attachment]

**To:** Koslow, Karin[Koslow.Karin@epa.gov]; Hull, George[Hull.George@epa.gov]; Starfield, Lawrence[Starfield.Lawrence@epa.gov]; Irving, John[Irving.John@epa.gov]; Kelley, Rosemarie[Kelley.Rosemarie@epa.gov]  
**Cc:** Egan, Patrick[egan.patrick@epa.gov]  
**From:** Bodine, Susan[/O=EXCHANGELABS/OU=EXCHANGE ADMINISTRATIVE GROUP (FYDIBOHF23SPDLT)/CN=RECIPIENTS/CN=8C2CC6086FCC44C3BE6B5D32B262D983-BODINE, SUS]  
**Sent:** Wed 5/6/2020 7:46:59 PM (UTC)  
**Subject:** RE: 2nd Batch of FAQs on Temporary Enforcement Policy

OK.  
I have no other questions.

**From:** Koslow, Karin <Koslow.Karin@epa.gov>  
**Sent:** Wednesday, May 6, 2020 3:24 PM  
**To:** Bodine, Susan <bodine.susan@epa.gov>; Hull, George <Hull.George@epa.gov>; Starfield, Lawrence <Starfield.Lawrence@epa.gov>; Irving, John <Irving.John@epa.gov>; Kelley, Rosemarie <Kelley.Rosemarie@epa.gov>  
**Cc:** Egan, Patrick <egan.patrick@epa.gov>  
**Subject:** RE: 2nd Batch of FAQs on Temporary Enforcement Policy

Susan – I circled back with folks re: your question **Ex. 5 Deliberative Process (DP)**

# Ex. 5 Deliberative Process (DP)

Let us know if you think it would help to rephrase the question so that is more clear.

Thanks,  
Karin

Karin Koslow  
Deputy Director, Office of Civil Enforcement  
Office of Enforcement and Compliance Assurance  
U.S. Environmental Protection Agency  
Desk: (202) 564-0171  
Cell: **Ex. 6 Personal Privacy (PP)**  
WJC South Room 3142D

**From:** Bodine, Susan <bodine.susan@epa.gov>  
**Sent:** Wednesday, May 06, 2020 1:50 PM  
**To:** Hull, George <Hull.George@epa.gov>; Starfield, Lawrence <Starfield.Lawrence@epa.gov>; Irving, John <Irving.John@epa.gov>; Kelley, Rosemarie <Kelley.Rosemarie@epa.gov>; Koslow, Karin <Koslow.Karin@epa.gov>  
**Cc:** Egan, Patrick <egan.patrick@epa.gov>  
**Subject:** RE: 2nd Batch of FAQs on Temporary Enforcement Policy

# Ex. 5 Deliberative Process (DP)

Can someone in OCE weigh in?

---

**From:** Hull, George <[Hull.George@epa.gov](mailto:Hull.George@epa.gov)>

**Sent:** Wednesday, May 6, 2020 1:28 PM

**To:** Bodine, Susan <[bodine.susan@epa.gov](mailto:bodine.susan@epa.gov)>; Starfield, Lawrence <[Starfield.Lawrence@epa.gov](mailto:Starfield.Lawrence@epa.gov)>; Irving, John <[Irving.John@epa.gov](mailto:Irving.John@epa.gov)>; Kelley, Rosemarie <[Kelley.Rosemarie@epa.gov](mailto:Kelley.Rosemarie@epa.gov)>; Koslow, Karin <[Koslow.Karin@epa.gov](mailto:Koslow.Karin@epa.gov)>

**Cc:** Egan, Patrick <[egan.patrick@epa.gov](mailto:egan.patrick@epa.gov)>

**Subject:** 2nd Batch of FAQs on Temporary Enforcement Policy

Susan, Larry, John, Rosemarie and Karin,

The second batch of FAQs on our temporary enforcement policy has been added to the first batch in the mock webpage, below. At the suggestion of the Tiger Team, we have divided the FAQs into subcategories to make it easier for visitors to find what they need. We have also put a posting date at the end of each FAQ, so that repeat visitors can easily tell what is new. I have reached out to my counterpart in OW to inform him that we were preparing to post. After checking in OW, he said that they were not ready to post their own new FAQs, but they were fine with our posting. Please let me know if you have questions or concerns. Pending your approval, we will make this live. Thanks, George

## Ex. 6 Personal Privacy (PP)



**To:** Irving, John[[Irving.John@epa.gov](mailto:Irving.John@epa.gov)]; Shiffman, Cari[[Shiffman.Cari@epa.gov](mailto:Shiffman.Cari@epa.gov)]  
**From:** Bodine, Susan[[O=EXCHANGELABS/OU=EXCHANGE ADMINISTRATIVE GROUP \(FYDIBOHF23SPDLT\)/CN=RECIPIENTS/CN=8C2CC6086FCC44C3BE6B5D32B262D983-BODINE, SUS](mailto:O=EXCHANGELABS/OU=EXCHANGE ADMINISTRATIVE GROUP (FYDIBOHF23SPDLT)/CN=RECIPIENTS/CN=8C2CC6086FCC44C3BE6B5D32B262D983-BODINE, SUS)]  
**Sent:** Tue 4/28/2020 8:09:45 PM (UTC)  
**Subject:** RE: OECA QA  
[Draft 2nd batch public QAs on temp COVID19 enf policy .docx](#)

The FAQs are public.  
Here is the new batch for OMB review. Includes some water ones.

---

**From:** Irving, John <[Irving.John@epa.gov](mailto:Irving.John@epa.gov)>  
**Sent:** Tuesday, April 28, 2020 4:07 PM  
**To:** Shiffman, Cari <[Shiffman.Cari@epa.gov](mailto:Shiffman.Cari@epa.gov)>  
**Cc:** Bodine, Susan <[bodine.susan@epa.gov](mailto:bodine.susan@epa.gov)>  
**Subject:** FW: OECA QA

... This suggests that the other AAships do not have access to the site.

Is there something that I can send to Anna Wildeman in OW?

John S. Irving  
Deputy Assistant Administrator  
U.S. Environmental Protection Agency  
Office of Enforcement & Compliance Assurance  
Office: (202) 564-2496 / Mobile: Ex. 6 Personal Privacy (PP)

---

**From:** Wildeman, Anna <[wildeman.anna@epa.gov](mailto:wildeman.anna@epa.gov)>  
**Sent:** Tuesday, April 28, 2020 4:03 PM  
**To:** Irving, John <[Irving.John@epa.gov](mailto:Irving.John@epa.gov)>  
**Subject:** OECA QA

Hi John,  
I understand OECA is putting together QAs on the COVID-19 enforcement memo. Would you be able to send me a couple of example QAs that are in the works? We are getting a lot of questions on mortality management, including from WH, so a QA on this issue may be helpful. Ex. 5 Deliberative Process (DP)  
Thanks,  
Anna

**Anna Wildeman**  
Principal Deputy Assistant Administrator  
Office of Water  
Environmental Protection Agency  
1200 Pennsylvania Avenue, NW  
Washington, DC 20460  
202-564-5700  
[Wildeman.Anna@epa.gov](mailto:Wildeman.Anna@epa.gov)

**To:** McIntosh, Chad[mcintosh.chad@epa.gov]  
**Cc:** Mason, Scott[Mason.Scott@epa.gov]; Starfield, Lawrence[Starfield.Lawrence@epa.gov]; Irving, John[Irving.John@epa.gov]; Shiffman, Cari[Shiffman.Cari@epa.gov]; Mirza, Sabah[Mirza.Sabah@epa.gov]; Tran, Victoria[tran.victoria@epa.gov]  
**From:** Bodine, Susan[/O=EXCHANGELABS/OU=EXCHANGE ADMINISTRATIVE GROUP (FYDIBOHF23SPDLT)/CN=RECIPIENTS/CN=8C2CC6086FCC44C3BE6B5D32B262D983-BODINE, SUS]  
**Sent:** Mon 3/30/2020 12:46:12 PM (UTC)  
**Subject:** RE: OECA response FW: Additional Chad points  
response to NTCs and RTOCs 3 30 20.docx

Please see the attached. There is a blank for contact names.

---

**From:** McIntosh, Chad <mcintosh.chad@epa.gov>  
**Sent:** Friday, March 27, 2020 5:43 PM  
**To:** Bodine, Susan <bodine.susan@epa.gov>  
**Cc:** Mason, Scott <Mason.Scott@epa.gov>  
**Subject:** FW: OECA response FW: Additional Chad points

Susan, Let us know your comments.

Thanks Chad

W.C. McIntosh  
Assistant Administrator  
International and Tribal Affairs  
United States Environmental Protection Agency  
202-564-6600

# Ex. 5 Deliberative Process (DP)

---

**From:** Wright, Felicia <Wright.Felicia@epa.gov>

ED\_004611F\_00003753-00001

OECA COVID-19 2020  
FOIAs\_Production006

**Sent:** Friday, March 27, 2020 4:21 PM  
**To:** Lieberman, Paige <[Lieberman.Paige@epa.gov](mailto:Lieberman.Paige@epa.gov)>  
**Cc:** Byrne, Andrew <[Byrne.Andrew@epa.gov](mailto:Byrne.Andrew@epa.gov)>  
**Subject:** OECA response FW: Additional Chad points  
**Importance:** High

Paige  
A few addendums:

## Ex. 5 Deliberative Process (DP)

And....see below.

Thanks,  
Felicia

---

**From:** Mason, Scott  
**Sent:** Friday, March 27, 2020 4:17 PM  
**To:** Wright, Felicia <[Wright.Felicia@epa.gov](mailto:Wright.Felicia@epa.gov)>  
**Subject:** Fwd:

Sent from my iPhone  
Begin forwarded message:

**From:** "McIntosh, Chad" <[mcintosh.chad@epa.gov](mailto:mcintosh.chad@epa.gov)>  
**Date:** March 27, 2020 at 3:08:37 PM CDT  
**To:** "Mason, Scott" <[Mason.Scott@epa.gov](mailto:Mason.Scott@epa.gov)>

## Ex. 5 Deliberative Process (DP)

W.C. McIntosh  
Assistant Administrator  
International and Tribal Affairs  
United States Environmental Protection Agency  
202-564-6600

**Cc:** Kramer, Jessica L.[kramer.jessical@epa.gov]; Forsgren, Lee[Forsgren.Lee@epa.gov]  
**To:** Ross, David P[ross.davidp@epa.gov]  
**From:** Bodine, Susan[/O=EXCHANGELABS/OU=EXCHANGE ADMINISTRATIVE GROUP (FYDIBOHF23SPDLT)/CN=RECIPIENTS/CN=8C2CC6086FCC44C3BE6B5D32B262D983-BODINE, SUS]  
**Sent:** Wed 4/15/2020 12:28:57 AM (UTC)  
**Subject:** Re: DRAFT COVID-19 message DELIBERATIVE ENFORCEMENT CONFIDENTIAL

Thanks

Sent from my iPhone

On Apr 14, 2020, at 8:04 PM, Ross, David P <ross.davidp@epa.gov> wrote:

Thanks Susan. I'm looking at this, with Jess' help

Ex. 5 Deliberative Process (DP)

Ex. 5 Deliberative Process (DP)

Ex. 5 Deliberative Process (DP)

Sent from my iPad

On Apr 14, 2020, at 3:42 PM, Bodine, Susan <bodine.susan@epa.gov> wrote:

Ex. 5 Deliberative Process (DP)

# Ex. 5 Deliberative Process (DP)

**From:** Bodine, Susan  
**Sent:** Monday, March 23, 2020 6:16 PM  
**To:** Ross, David P <[ross.davidp@epa.gov](mailto:ross.davidp@epa.gov)>  
**Subject:** RE: DRAFT COVID-19 message DELIBERATIVE ENFORCEMENT CONFIDENTIAL

# Ex. 5 Deliberative Process (DP)

**From:** Ross, David P <[ross.davidp@epa.gov](mailto:ross.davidp@epa.gov)>  
**Sent:** Monday, March 23, 2020 6:14 PM  
**To:** Bodine, Susan <[bodine.susan@epa.gov](mailto:bodine.susan@epa.gov)>  
**Subject:** Re: DRAFT COVID-19 message DELIBERATIVE ENFORCEMENT CONFIDENTIAL

# Ex. 5 Deliberative Process (DP)

Sent from my iPhone  
<FINAL DRAFT COVID-19 Implications for EPA's Enforcement and Compliance Assurance Program (DRAFT - DO NOT RELEASE - DELIBERATIVE - ENFORCEMENT CONFIDENTIAL).pdf>  
<OW-OECA COVID19 Flexibilities and Priorities 4-13-2020OWresponsetoOECA.docx>

**To:** Hindin, David[Hindin.David@epa.gov]; Kelley, Rosemarie[Kelley.Rosemarie@epa.gov]  
**Cc:** Johnson, Kathleen[Johnson.Kathleen@epa.gov]; Starfield, Lawrence[Starfield.Lawrence@epa.gov]; Irving, John[Irving.John@epa.gov]; Shiffman, Cari[Shiffman.Cari@epa.gov]; Mirza, Sabah[Mirza.Sabah@epa.gov]; Tran, Victoria[tran.victoria@epa.gov]; Hull, George[Hull.George@epa.gov]; Egan, Patrick[egan.patrick@epa.gov]; Koslow, Karin[Koslow.Karin@epa.gov]; Porter, Amy[Porter.Amy@epa.gov]; Fogarty, Johnpc[Fogarty.Johnpc@epa.gov]; Holmes, Carol[Holmes.Carol@epa.gov]  
**From:** Bodine, Susan[/O=EXCHANGELABS/OU=EXCHANGE ADMINISTRATIVE GROUP (FYDIBOHF23SPDLT)/CN=RECIPIENTS/CN=8C2CC6086FCC44C3BE6B5D32B262D983-BODINE, SUS]  
**Sent:** Sun 3/29/2020 4:21:52 PM (UTC)  
**Subject:** RE: OECA response FW: Additional Chad points -  
response to NTCs and RTOCs rak +KJrev spb 2.docx

Here is my plain English version.

**From:** Hindin, David <Hindin.David@epa.gov>  
**Sent:** Saturday, March 28, 2020 3:32 PM  
**To:** Kelley, Rosemarie <Kelley.Rosemarie@epa.gov>; Bodine, Susan <bodine.susan@epa.gov>  
**Cc:** Johnson, Kathleen <Johnson.Kathleen@epa.gov>; Starfield, Lawrence <Starfield.Lawrence@epa.gov>; Irving, John <Irving.John@epa.gov>; Shiffman, Cari <Shiffman.Cari@epa.gov>; Mirza, Sabah <Mirza.Sabah@epa.gov>; Tran, Victoria <tran.victoria@epa.gov>; Hull, George <Hull.George@epa.gov>; Egan, Patrick <egan.patrick@epa.gov>; Koslow, Karin <Koslow.Karin@epa.gov>; Porter, Amy <Porter.Amy@epa.gov>; Fogarty, Johnpc <Fogarty.Johnpc@epa.gov>; Holmes, Carol <Holmes.Carol@epa.gov>  
**Subject:** RE: OECA response FW: Additional Chad points -

# Ex. 5 Deliberative Process (DP)

**From:** Kelley, Rosemarie <Kelley.Rosemarie@epa.gov>  
**Sent:** Saturday, March 28, 2020 2:22 PM  
**To:** Bodine, Susan <bodine.susan@epa.gov>  
**Cc:** Johnson, Kathleen <Johnson.Kathleen@epa.gov>; Starfield, Lawrence <Starfield.Lawrence@epa.gov>; Irving, John <Irving.John@epa.gov>; Hindin, David <Hindin.David@epa.gov>; Shiffman, Cari <Shiffman.Cari@epa.gov>; Mirza, Sabah <Mirza.Sabah@epa.gov>; Tran, Victoria <tran.victoria@epa.gov>; Hull, George <Hull.George@epa.gov>; Egan, Patrick <egan.patrick@epa.gov>; Koslow, Karin <Koslow.Karin@epa.gov>; Porter, Amy <Porter.Amy@epa.gov>; Fogarty, Johnpc <Fogarty.Johnpc@epa.gov>; Holmes, Carol <Holmes.Carol@epa.gov>  
**Subject:** Re: OECA response FW: Additional Chad points

We can work with George on those.

Rosemarie

On Mar 28, 2020, at 12:15 PM, Bodine, Susan <bodine.susan@epa.gov> wrote:

Thanks,

ED\_004611F\_00004168-00001

OECA COVID-19 2020  
FOIAs\_Production006

# Ex. 5 Deliberative Process (DP)

Susan

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**From:** Johnson, Kathleen <[Johnson.Kathleen@epa.gov](mailto:Johnson.Kathleen@epa.gov)>

**Sent:** Friday, March 27, 2020 8:46 PM

**To:** Kelley, Rosemarie <[Kelley.Rosemarie@epa.gov](mailto:Kelley.Rosemarie@epa.gov)>; Bodine, Susan <[bodine.susan@epa.gov](mailto:bodine.susan@epa.gov)>; Starfield, Lawrence <[Starfield.Lawrence@epa.gov](mailto:Starfield.Lawrence@epa.gov)>; Irving, John <[Irving.John@epa.gov](mailto:Irving.John@epa.gov)>; Hindin, David <[Hindin.David@epa.gov](mailto:Hindin.David@epa.gov)>

**Cc:** Shiffman, Cari <[Shiffman.Cari@epa.gov](mailto:Shiffman.Cari@epa.gov)>; Mirza, Sabah <[Mirza.Sabah@epa.gov](mailto:Mirza.Sabah@epa.gov)>; Tran, Victoria <[tran.victoria@epa.gov](mailto:tran.victoria@epa.gov)>

**Subject:** RE: OECA response FW: Additional Chad points

Adding a couple of minor edits.

Kathleen H. Johnson

Senior Policy Advisor

Office of Enforcement and Compliance Assurance

Cell phone Ex. 6 Personal Privacy (PP)

[Johnson.kathleen@epa.gov](mailto:Johnson.kathleen@epa.gov)

---

**From:** Kelley, Rosemarie <[Kelley.Rosemarie@epa.gov](mailto:Kelley.Rosemarie@epa.gov)>

**Sent:** Friday, March 27, 2020 6:49 PM

**To:** Bodine, Susan <[bodine.susan@epa.gov](mailto:bodine.susan@epa.gov)>; Starfield, Lawrence <[Starfield.Lawrence@epa.gov](mailto:Starfield.Lawrence@epa.gov)>; Irving, John <[Irving.John@epa.gov](mailto:Irving.John@epa.gov)>; Hindin, David <[Hindin.David@epa.gov](mailto:Hindin.David@epa.gov)>; Johnson, Kathleen <[Johnson.Kathleen@epa.gov](mailto:Johnson.Kathleen@epa.gov)>

**Cc:** Shiffman, Cari <[Shiffman.Cari@epa.gov](mailto:Shiffman.Cari@epa.gov)>; Mirza, Sabah <[Mirza.Sabah@epa.gov](mailto:Mirza.Sabah@epa.gov)>; Tran, Victoria <[tran.victoria@epa.gov](mailto:tran.victoria@epa.gov)>

**Subject:** RE: OECA response FW: Additional Chad points

Susan—

I have one suggested wording change and caught one typo.

Rosemarie

---

**From:** Bodine, Susan <[bodine.susan@epa.gov](mailto:bodine.susan@epa.gov)>

**Sent:** Friday, March 27, 2020 6:25 PM

**To:** Starfield, Lawrence <[Starfield.Lawrence@epa.gov](mailto:Starfield.Lawrence@epa.gov)>; Irving, John <[Irving.John@epa.gov](mailto:Irving.John@epa.gov)>; Kelley, Rosemarie <[Kelley.Rosemarie@epa.gov](mailto:Kelley.Rosemarie@epa.gov)>; Hindin, David <[Hindin.David@epa.gov](mailto:Hindin.David@epa.gov)>; Johnson, Kathleen <[Johnson.Kathleen@epa.gov](mailto:Johnson.Kathleen@epa.gov)>

**Cc:** Shiffman, Cari <[Shiffman.Cari@epa.gov](mailto:Shiffman.Cari@epa.gov)>; Mirza, Sabah <[Mirza.Sabah@epa.gov](mailto:Mirza.Sabah@epa.gov)>; Tran, Victoria <[tran.victoria@epa.gov](mailto:tran.victoria@epa.gov)>

**Subject:** FW: OECA response FW: Additional Chad points

See attached my edits to Chad's message.

Comments welcome. He would like to get this out ASAP but understands that probably means Monday.

Susan

---

**From:** McIntosh, Chad <[mcintosh.chad@epa.gov](mailto:mcintosh.chad@epa.gov)>

**Sent:** Friday, March 27, 2020 5:43 PM

**To:** Bodine, Susan <[bodine.susan@epa.gov](mailto:bodine.susan@epa.gov)>

**Cc:** Mason, Scott <[Mason.Scott@epa.gov](mailto:Mason.Scott@epa.gov)>

**Subject:** FW: OECA response FW: Additional Chad points

Susan, Let us know your comments.

Thanks Chad

W.C. McIntosh  
Assistant Administrator  
International and Tribal Affairs  
United States Environmental Protection Agency  
202-564-6600

# Ex. 5 Deliberative Process (DP)

---

**From:** Wright, Felicia <[Wright.Felicia@epa.gov](mailto:Wright.Felicia@epa.gov)>  
**Sent:** Friday, March 27, 2020 4:21 PM  
**To:** Lieberman, Paige <[Lieberman.Paige@epa.gov](mailto:Lieberman.Paige@epa.gov)>  
**Cc:** Byrne, Andrew <[Byrne.Andrew@epa.gov](mailto:Byrne.Andrew@epa.gov)>  
**Subject:** OECA response FW: Additional Chad points  
**Importance:** High

Paige  
A few addendums:

## Ex. 5 Deliberative Process (DP)



## Ex. 5 Deliberative Process (DP)

And....see below.

Thanks,  
Felicia

---

**From:** Mason, Scott  
**Sent:** Friday, March 27, 2020 4:17 PM  
**To:** Wright, Felicia <[Wright.Felicia@epa.gov](mailto:Wright.Felicia@epa.gov)>  
**Subject:** Fwd:

Sent from my iPhone  
Begin forwarded message:

**From:** "McIntosh, Chad" <[mcintosh.chad@epa.gov](mailto:mcintosh.chad@epa.gov)>  
**Date:** March 27, 2020 at 3:08:37 PM CDT  
**To:** "Mason, Scott" <[Mason.Scott@epa.gov](mailto:Mason.Scott@epa.gov)>

## Ex. 5 Deliberative Process (DP)

W.C. McIntosh  
Assistant Administrator  
International and Tribal Affairs  
United States Environmental Protection Agency  
202-564-6600

<response to NTCs and RTOCs rak +KJrev.docx>

**To:** Susan Bodine[susan.bodine@verizon.net]  
**From:** Bodine, Susan [/O=EXCHANGELABS/OU=EXCHANGE ADMINISTRATIVE GROUP (FYDIBOHF23SPDLT)/CN=RECIPIENTS/CN=8C2CC6086FCC44C3BE6B5D32B262D983-BODINE, SUS]  
**Sent:** Tue 4/28/2020 1:11:32 AM (UTC)  
**Subject:** Fwd: Clean 2nd Batch Temp. Enf. Discretion Policy FAQs  
[Water FAQs v2 for SPB.docx](#)  
[ATT00001.htm](#)

Sent from my iPhone

Begin forwarded message:

**From:** "Holmes, Carol" <Holmes.Carol@epa.gov>  
**Date:** April 27, 2020 at 6:55:51 PM EDT  
**To:** "Bodine, Susan" <bodine.susan@epa.gov>, "Fogarty, Johnpc" <Fogarty.Johnpc@epa.gov>, "Baptista, Chrisna" <Baptista.Chrisna@epa.gov>  
**Cc:** "Kelley, Rosemarie" <Kelley.Rosemarie@epa.gov>, "Pollins, Mark" <Pollins.Mark@epa.gov>, "Johnson, Kathleen" <Johnson.Kathleen@epa.gov>, "Starfield, Lawrence" <Starfield.Lawrence@epa.gov>, "Irving, John" <Irving.John@epa.gov>, "Shiffman, Cari" <Shiffman.Cari@epa.gov>, "Mirza, Sabah" <Mirza.Sabah@epa.gov>, "Tran, Victoria" <tran.victoria@epa.gov>, "Koslow, Karin" <Koslow.Karin@epa.gov>, "Theis, Joseph" <Theis.Joseph@epa.gov>  
**Subject:** RE: Clean 2nd Batch Temp. Enf. Discretion Policy FAQs

Hi Susan – we reviewed and had made some minor edits to the Water FAQs you sent (e.g., **Ex. 5 Deliberative Process (DP)** However, late this afternoon, OW reached out to me to review their revisions to the same Q&A, apparently in response to our earlier comments. I've provided those OW proposed revisions in comment balloons in the attached. Thanks, Carol

May contain sensitive communication for internal deliberations only, attorney-client communication, attorney work product, and/or enforcement sensitive information. Do not distribute outside the U.S. Government.

---

Carol S. Holmes  
Senior Counsel  
Crosscutting Policy Staff  
Office of Civil Enforcement (MC 2241A)  
U.S. Environmental Protection Agency  
1200 Pennsylvania Ave, NW  
Washington, DC 20460  
Phone (202) 564-8709

---

---

**From:** Bodine, Susan <bodine.susan@epa.gov>  
**Sent:** Monday, April 27, 2020 11:16 AM  
**To:** Holmes, Carol <Holmes.Carol@epa.gov>; Fogarty, Johnpc <Fogarty.Johnpc@epa.gov>; Baptista, Chrisna <Baptista.Chrisna@epa.gov>  
**Cc:** Kelley, Rosemarie <Kelley.Rosemarie@epa.gov>; Pollins, Mark <Pollins.Mark@epa.gov>; Johnson, Kathleen <Johnson.Kathleen@epa.gov>; Starfield, Lawrence <Starfield.Lawrence@epa.gov>; Irving, John <Irving.John@epa.gov>; Shiffman, Cari <Shiffman.Cari@epa.gov>; Mirza, Sabah <Mirza.Sabah@epa.gov>; Tran, Victoria <tran.victoria@epa.gov>  
**Subject:** FW: Clean 2nd Batch Temp. Enf. Discretion Policy FAQs

# Ex. 5 Deliberative Process (DP)

---

**From:** Shiffman, Cari <[Shiffman.Cari@epa.gov](mailto:Shiffman.Cari@epa.gov)>

**Sent:** Monday, April 27, 2020 9:47 AM

**To:** Bodine, Susan <[bodine.susan@epa.gov](mailto:bodine.susan@epa.gov)>; Starfield, Lawrence <[Starfield.Lawrence@epa.gov](mailto:Starfield.Lawrence@epa.gov)>; Irving, John <[Irving.John@epa.gov](mailto:Irving.John@epa.gov)>

**Cc:** Mirza, Sabah <[Mirza.Sabah@epa.gov](mailto:Mirza.Sabah@epa.gov)>; Tran, Victoria <[tran.victoria@epa.gov](mailto:tran.victoria@epa.gov)>

**Subject:** Clean 2nd Batch Temp. Enf. Discretion Policy FAQs

To share with OMB.

Thanks,

Cari Shiffman, Chief of Staff  
U.S. Environmental Protection Agency  
Office of Enforcement and Compliance Assurance  
Office: (202) 564-2898 | Mobile: Ex. 6 Personal Privacy (PP)

**To:** Pollins, Mark[Pollins.Mark@epa.gov]  
**From:** Bodine, Susan[O=EXCHANGELABS/OU=EXCHANGE ADMINISTRATIVE GROUP (FYDIBOHF23SPDLT)/CN=RECIPIENTS/CN=8C2CC6086FCC44C3BE6B5D32B262D983-BODINE, SUS]  
**Sent:** Tue 4/7/2020 4:59:58 PM (UTC)  
**Subject:** Fwd: vessel discharges

Sent from my iPhone

Begin forwarded message:

**From:** "Forsgren, Lee" <Forsgren.Lee@epa.gov>  
**Date:** April 7, 2020 at 12:51:22 PM EDT  
**To:** "Bodine, Susan" <bodine.susan@epa.gov>  
**Subject: Re: vessel discharges**

Susan

# Ex. 5 Deliberative Process (DP)

Lee

Sent from my iPhone

On Apr 7, 2020, at 12:31 PM, Bodine, Susan <bodine.susan@epa.gov> wrote:

# Ex. 5 Deliberative Process (DP)

# Ex. 5 Deliberative Process (DP)

Susan Parker Bodine  
Assistant Administrator  
Office of Enforcement and Compliance Assurance  
202-564-2440

<OW-OECA COVID19 Flexibilities and Priorities 4-6-2020 +OCE spb.docx>

**Cc:** Fogarty, Johnpc[Fogarty.Johnpc@epa.gov]; Baptista, Chrisna[Baptista.Chrisna@epa.gov]; Kelley, Rosemarie[Kelley.Rosemarie@epa.gov]; Pollins, Mark[Pollins.Mark@epa.gov]; Johnson, Kathleen[Johnson.Kathleen@epa.gov]; Starfield, Lawrence[Starfield.Lawrence@epa.gov]; Irving, John[Irving.John@epa.gov]; Shiffman, Cari[Shiffman.Cari@epa.gov]; Mirza, Sabah[Mirza.Sabah@epa.gov]; Tran, Victoria[tran.victoria@epa.gov]; Koslow, Karin[Koslow.Karin@epa.gov]; Theis, Joseph[Theis.Joseph@epa.gov]  
**To:** Holmes, Carol[Holmes.Carol@epa.gov]  
**From:** Bodine, Susan[/O=EXCHANGELABS/OU=EXCHANGE ADMINISTRATIVE GROUP (FYDIBOHF23SPDLT)/CN=RECIPIENTS/CN=8C2CC6086FCC44C3BE6B5D32B262D983-BODINE, SUS]  
**Sent:** Mon 4/27/2020 11:30:41 PM (UTC)  
**Subject:** Re: Clean 2nd Batch Temp. Enf. Discretion Policy FAQs

thanks

Sent from my iPhone

On Apr 27, 2020, at 6:55 PM, Holmes, Carol <Holmes.Carol@epa.gov> wrote:

Hi Susan – we reviewed and had made some minor edits to the Water FAQs you sent (e.g., **Ex. 5 Deliberative Process (DP)** However, late this afternoon, OW reached out to me to review their revisions to the same Q&A, apparently in response to our earlier comments. I’ve provided those OW proposed revisions in comment balloons in the attached. Thanks, Carol

May contain sensitive communication for internal deliberations only, attorney-client communication, attorney work product, and/or enforcement sensitive information. Do not distribute outside the U.S. Government.

Carol S. Holmes  
Senior Counsel  
Crosscutting Policy Staff  
Office of Civil Enforcement (MC 2241A)  
U.S. Environmental Protection Agency  
1200 Pennsylvania Ave, NW  
Washington, DC 20460  
Phone (202) 564-8709

**From:** Bodine, Susan <bodine.susan@epa.gov>  
**Sent:** Monday, April 27, 2020 11:16 AM  
**To:** Holmes, Carol <Holmes.Carol@epa.gov>; Fogarty, Johnpc <Fogarty.Johnpc@epa.gov>; Baptista, Chrisna <Baptista.Chrisna@epa.gov>  
**Cc:** Kelley, Rosemarie <Kelley.Rosemarie@epa.gov>; Pollins, Mark <Pollins.Mark@epa.gov>; Johnson, Kathleen <Johnson.Kathleen@epa.gov>; Starfield, Lawrence <Starfield.Lawrence@epa.gov>; Irving, John <Irving.John@epa.gov>; Shiffman, Cari <Shiffman.Cari@epa.gov>; Mirza, Sabah <Mirza.Sabah@epa.gov>; Tran, Victoria <tran.victoria@epa.gov>  
**Subject:** FW: Clean 2nd Batch Temp. Enf. Discretion Policy FAQs  
**Importance:** High

**Ex. 5 Deliberative Process (DP)**

---

**From:** Shiffman, Cari <[Shiffman.Cari@epa.gov](mailto:Shiffman.Cari@epa.gov)>

**Sent:** Monday, April 27, 2020 9:47 AM

**To:** Bodine, Susan <[bodine.susan@epa.gov](mailto:bodine.susan@epa.gov)>; Starfield, Lawrence <[Starfield.Lawrence@epa.gov](mailto:Starfield.Lawrence@epa.gov)>; Irving, John <[Irving.John@epa.gov](mailto:Irving.John@epa.gov)>

**Cc:** Mirza, Sabah <[Mirza.Sabah@epa.gov](mailto:Mirza.Sabah@epa.gov)>; Tran, Victoria <[tran.victoria@epa.gov](mailto:tran.victoria@epa.gov)>

**Subject:** Clean 2nd Batch Temp. Enf. Discretion Policy FAQs

To share with OMB.

Thanks,

Cari Shiffman, Chief of Staff

U.S. Environmental Protection Agency

Office of Enforcement and Compliance Assurance

Office: (202) 564-2898 | Mobile: Ex. 6 Personal Privacy (PP)

<Water FAQs v2 for SPB.docx>

**To:** Walker, Mary[walker.mary@epa.gov]; Benevento, Douglas[benevento.douglas@epa.gov]  
**From:** Bodine, Susan[/O=EXCHANGELABS/OU=EXCHANGE ADMINISTRATIVE GROUP (FYDIBOHF23SPDLT)/CN=RECIPIENTS/CN=8C2CC6086FCC44C3BE6B5D32B262D983-BODINE, SUS]  
**Sent:** Tue 3/31/2020 4:36:12 PM (UTC)  
**Subject:** RE: EPA Enforcement Memo - COVID 19

Thanks!

---

**From:** Walker, Mary <walker.mary@epa.gov>  
**Sent:** Tuesday, March 31, 2020 12:33 PM  
**To:** Benevento, Douglas <benevento.douglas@epa.gov>; Bodine, Susan <bodine.susan@epa.gov>  
**Subject:** FW: EPA Enforcement Memo - COVID 19

FYI

---

**From:** Greg Young <Greg.Young@tn.gov>  
**Sent:** Tuesday, March 31, 2020 12:19 PM  
**To:** Walker, Mary <walker.mary@epa.gov>  
**Cc:** David Salyers <david.salyers@tn.gov>; Jenny Howard <Jenny.Howard@tn.gov>  
**Subject:** RE: EPA Enforcement Memo - COVID 19

Mary,

Thank you very much for sending this helpful guidance. We appreciate EPA’s recognition of these extraordinary times and working to balance regulatory discretion with continued environmental protection. In this regard, I am attaching our own TDEC Bureau of Environment COVID-19 guidance. If you have any questions, please do not hesitate to reach out to me or Commissioner Salyers.

Greg



Gregory T. Young  
Deputy Commissioner, Bureau of Environment  
615-532-7751 (office)  
615-693-1363 (cell)  
[greg.young@tn.gov](mailto:greg.young@tn.gov)

---

**From:** Walker, Mary [<mailto:walker.mary@epa.gov>]  
**Sent:** Thursday, March 26, 2020 2:23 PM  
**To:** Lance R. LeFleur; Marilyn Elliot; Noah Valenstein; John Truitt; Richard Dunn; Lauren Curry; Charles Snavelly; [tony.hatton@ky.gov](mailto:tony.hatton@ky.gov); [sean.alteri@ky.gov](mailto:sean.alteri@ky.gov); Gary Rikard; Chris Wells; Chris Sanders; Michael Regan; Sheila Holman; [reecemc@dhec.sc.gov](mailto:reecemc@dhec.sc.gov); [teresa.higgins@dhec.sc.gov](mailto:teresa.higgins@dhec.sc.gov); David Salyers; Greg Young; Hannah Nodell; Elaine Boyd; Laura Cranage; Tori Deal; [Carla.Gaskin@dep.state.fl.us](mailto:Carla.Gaskin@dep.state.fl.us); Tamara Fischer; Eve Roberts; Denise Profitt; Jill Bailey; Kathleen Lance; Renee Baecker; [stephens@dhec.dc.gov](mailto:stephens@dhec.dc.gov); Kelley Clemons  
**Cc:** Ashbee, Blake; Banister, Beverly; Jenkins, Brandi; Wise, Allison; Johnson, Belinda; Monell, Carol; Gettle, Jeaneanne; Kemker, Carol; Palmer, Leif; Mitchell, Ken; Tellis, Vickie; Wyatt, Marc; Zapata, Cesar; Blevins, John; Jones, Aaryn; Johnson, Belinda  
**Subject:** [EXTERNAL] EPA Enforcement Memo - COVID 19

\*\*\* This is an EXTERNAL email. Please exercise caution. DO NOT open attachments or click links from unknown senders or unexpected email - STS-Security. \*\*\*

State Commissioners,

Thank you for your time on this afternoon’s call. Susan Bodine’s memo on COVID-19 considerations for enforcement programs has now been released. A copy of the memo is attached.



Please reach out to Carol Kemker and/or Leif Palmer with any questions you may have on this memo. And please contact me or any of us with any questions or needs you may have during this period.

Best regards,  
Mary

Mary Salmon Walker Regional Administrator  
US Environmental Protection Agency, Region 4  
61 Forsyth Street, SW  
Atlanta, GA 30303  
Tel: (404) 562-8357

**To:** Starfield, Lawrence[Starfield.Lawrence@epa.gov]  
**Cc:** Irving, John[Irving.John@epa.gov]; Kelley, Rosemarie[Kelley.Rosemarie@epa.gov]; Koslow, Karin[Koslow.Karin@epa.gov]; Johnson, Kathleen[Johnson.Kathleen@epa.gov]; Shiffman, Cari[Shiffman.Cari@epa.gov]  
**From:** Bodine, Susan[/O=EXCHANGELABS/OU=EXCHANGE ADMINISTRATIVE GROUP (FYDIBOHF23SPDLT)/CN=RECIPIENTS/CN=8C2CC6086FCC44C3BE6B5D32B262D983-BODINE, SUS]  
**Sent:** Tue 4/7/2020 12:42:45 PM (UTC)  
**Subject:** RE: Region 8 RA meeting on the Temporary Enforcement Policy

I should join his call.

**From:** Starfield, Lawrence <Starfield.Lawrence@epa.gov>  
**Sent:** Monday, April 6, 2020 7:28 PM  
**To:** Bodine, Susan <bodine.susan@epa.gov>  
**Cc:** Irving, John <Irving.John@epa.gov>; Kelley, Rosemarie <Kelley.Rosemarie@epa.gov>; Koslow, Karin <Koslow.Karin@epa.gov>; Johnson, Kathleen <Johnson.Kathleen@epa.gov>; Shiffman, Cari <Shiffman.Cari@epa.gov>  
**Subject:** Region 8 RA meeting on the Temporary Enforcement Policy  
**Importance:** High

Susan,

As you know, Greg Sopkin has agreed to have a call on Thursday with the Western Energy Alliance to discuss the Temporary Enforcement Discretion Policy, and the WEA has submitted a set of 10 questions that they'd like Greg to address (the WEA letter and questions are attached).

## Ex. 5 Deliberative Process (DP)

# Ex. 5 Deliberative Process (DP)

Larry  
This message is CONFIDENTIAL, and may contain legally privileged information. If you are not the intended recipient, or believe you received this communication in error, please delete it immediately, do not copy, and notify the sender. Thank you.

**From:** Schefski, Kenneth <Schefski.Kenneth@epa.gov>  
**Sent:** Friday, April 3, 2020 4:55 PM  
**To:** Johnson, Kathleen <Johnson.Kathleen@epa.gov>  
**Cc:** Bohan, Suzanne <bohan.suzanne@epa.gov>; Dean, Abigail <Dean.Abigail@epa.gov>; Wilwerding, Joseph <Wilwerding.Joseph@epa.gov>; Kelley, Rosemarie <Kelley.Rosemarie@epa.gov>; Koslow, Karin <Koslow.Karin@epa.gov>  
**Subject:** FW: Joint Trades EPA Webinar Questions 4.9.20

Kathleen,

## Ex. 5 Deliberative Process (DP)

Thanks, KC

K.C. Schefski  
Regional Counsel  
US EPA, Region 8  
1595 Wynkoop Street  
Denver, CO 80202

Work: 303.312.6843 | Cell: Ex. 6 Personal Privacy (PP) Fax: 303-312-7202

*This email is for the intended recipient only and may contain material that is privileged and/or confidential. If you believe you have received this email in error, please notify the sender. Thank you.*

---

**From:** Sethuraman, Jag <[Sethuraman.Jag@epa.gov](mailto:Sethuraman.Jag@epa.gov)>  
**Sent:** Friday, April 3, 2020 1:54 PM  
**To:** Bohan, Suzanne <[bohan.suzanne@epa.gov](mailto:bohan.suzanne@epa.gov)>; Schefski, Kenneth <[Schefski.Kenneth@epa.gov](mailto:Schefski.Kenneth@epa.gov)>; Daly, Carl <[Daly.Carl@epa.gov](mailto:Daly.Carl@epa.gov)>  
**Cc:** Sopkin, Gregory <[sopkin.gregory@epa.gov](mailto:sopkin.gregory@epa.gov)>  
**Subject:** FW: Joint Trades EPA Webinar Questions 4.9.20

Suzanne, KC and Carl,

As you may know, WEA has asked Greg to be available for a call on Thursday of next week. WEA submitted questions for Greg ahead of time. Greg asked that I send this to you to get him answers. I would appreciate it if you could get answers to these questions to Greg and I by noon on Wednesday, if possible. Please let me know if you have questions or concerns.

Thanks,

Jagadeesan Sethuraman  
Chief of Staff  
EPA Region 8  
303.312.6446  
[Sethuraman.Jag@epa.gov](mailto:Sethuraman.Jag@epa.gov)

---

**From:** Kate Pinson <[kpinson@westernenergyalliance.org](mailto:kpinson@westernenergyalliance.org)>  
**Sent:** Friday, April 3, 2020 1:17 PM  
**To:** Sethuraman, Jag <[Sethuraman.Jag@epa.gov](mailto:Sethuraman.Jag@epa.gov)>  
**Cc:** Kathleen Sgamma <[ksgamma@westernenergyalliance.org](mailto:ksgamma@westernenergyalliance.org)>  
**Subject:** Joint Trades EPA Webinar Questions 4.9.20

Jag,

Thank you for giving the Region 8 trades the opportunity to hear from EPA next week. We look forward to discussing COVID-19 Implications for EPA's Enforcement and Compliance Assurance Program with you and Greg. Please let me know if you have any questions or need for clarification regarding the attached PDF of questions from members.

Stay well,

Kate Noble Pinson  
Regulatory Analyst  
Western Energy Alliance  
1775 Sherman St., Suite 2700  
Denver, CO 80203  
(303) 501-1060 direct  
(303) 623-0987 main  
[kpinson@westernenergyalliance.org](mailto:kpinson@westernenergyalliance.org)  
[westernenergyalliance.org](http://westernenergyalliance.org)



Arkansas  
Environmental  
Federation

*Industries for the Environment*

Plaza West – Suite 835 – 415 North McKinley Street

Little Rock, AR 72205

Phone: 501-374-0263 Fax: 501-374-8752

[www.environmentark.org](http://www.environmentark.org)

March 23, 2020

Region 6 Administrator Ken McQueen  
U.S. Environmental Protection Agency, Region 6  
1201 Elm Street  
Dallas, Texas 75270  
*And via electronic mail*

Dear Administrator McQueen,

Enclosed with this letter is a hard copy of the letter the Arkansas Environmental Federation (AEF) sent to Secretary Keogh, Division Director of the Division of Environmental Quality, a division of the Department of Energy and the Environment in Arkansas. Our letter makes requests for maximum regulatory flexibility across the parameters of environmental regulation due to COVID-19. We do not seek to stop regulation, rather, we seek the ability to continue operations and meet reasonable deadlines during these unprecedented times. Our goal is to continue to conduct business with as little economic interruption as possible while keeping the environment and our workers safe.

Several our requests are federal regulations. I do appreciate your consideration of these requests as AEF members attempt to work through this situation. We look forward to a response from Region 6.

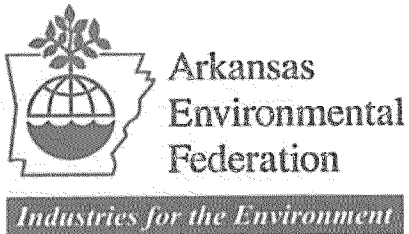
An electronic copy of this letter was sent to your inbox March 20, 2020.

Respectfully,

Ava F. Roberts  
Executive Director  
Arkansas Environmental Federation

*Copied via electronic mail:*

*Caleb Stanton, Office of Governor Asa Hutchinson, Energy and Transportation Liaison  
Secretary Becky Keogh*



Plaza West – Suite 835 – 415 North McKinley Street

Little Rock, AR 72205

Phone: 501-374-0263 Fax: 501-374-8752

[www.environmentark.org](http://www.environmentark.org)

March 20, 2020

Secretary Becky Keogh  
Arkansas Energy and the Environment  
5301 Northshore Drive  
North Little Rock, Arkansas 72118  
*And via electronic mail at [keogh@adeq.state.ar.us](mailto:keogh@adeq.state.ar.us)*

Dear Secretary Keogh,

Thank you for requesting the Arkansas Environmental Federation submit areas where regulatory relief may be necessary in order to continue daily activity of Arkansas companies and therefore the economic viability of our state during COVID-19. We thoroughly appreciate your interest in working with Arkansas's industry to promote environmental and safety as well as economic success.

Members of the Arkansas Environmental Federation (AEF) are committed to safe and environmentally responsible operation of operating sites. To protect both its employees, site contractors, and the general public, AEF seeks to temporarily limit certain on-site activities by personnel as part of the larger COVID-19 response. In order to achieve this goal, some periodic sampling, testing, recordkeeping, and reporting activities can and should be safely and responsibly deferred during the present phase of the response, to be conducted, resumed, or extended as conditions are appropriate.

The DEQ has statutory and regulatory authority to grant variances and authorizations in certain circumstances. AEF believes the vast and prolonged impact of COVID-19 on daily activities warrants DEQ utilize maximum flexibility.

Respectfully, AEF requests DEQ issue a broad no-action assurance letter and presumptively approvable variance and interim authority applications that may be retroactive. The AEF also respectfully requests DEQ to create a dedicated website and contact information for COVID-19 updates that includes the presumptive application forms on the webpage.

*Set forth below is a non-exclusive list of provisions and activities identified by AEF Members for necessary relief to enable response to COVID-19. We understand that DEQ's authority cannot be extended to Federal requirements and the activities below are only identified to the extent that they are State-imposed obligations.*

*This list may be revised as the response develops.*

- A blanket extension of 2020 deadlines for filing, reporting, recordkeeping, including those not included in this list.
  - Implement a waiver system that may extend deadlines, for reasons not limited to an employee or contractor with COVID-19 or a company's compliance with health-based recommendations forcing rescheduling.
  - This extension may also be necessary if any governmental entity imposes restrictions beyond the facility's control.
  - For air permits, the DEQ already has the authority to grant extensions. (See General Provision #24 below.)
- 24. The permittee may request in writing and at least 15 days in advance of the deadline, an extension to any testing, compliance or other dates in this permit. No such extensions are authorized until the permittee receives written Department approval. The Department may grant such a request, at its discretion in the following circumstances:
  - a. Such an extension does not violate a federal requirement;
  - b. The permittee demonstrates the need for the extension; and
  - c. The permittee documents that all reasonable measures have been taken to meet the current deadline and documents reasons it cannot be met.
- Training or retraining deadlines waiver – WW operators, drinking water certifications, Boilers operators, Method 9 certifications, visible emissions trainings, waiver of CEU/CLE units for certifications/licensure for those who currently hold certificates/licenses.
- Continue to expeditiously review and process invoices for contractors providing services to AE&E under state contracts and who receive reimbursement for work performed as Trust Fund projects.
- Extension of time to respond to inspection reports and CAOs.
- Grant a one-time 60-day extension to all sample or test deadlines due over the next three months.
  - After 60-days, companies can make demonstrations to support other problems that necessitate extensions or delays.

- Suspend fixed period samples or test deadlines for 60 days.
  - After 60-days, companies can make demonstrations to support other problems that necessitate extensions or delays.
- Blanket reduction in sampling at state level—a 50% reduction in frequency to lessen pressure on labs and businesses. Can use predicative indicators, internal information to verify.
- For the calendar year 2020, rescind the Regulation 2, 19, 22, and 23 requirements that go beyond the federal requirements.
  - After 60-days, companies can make demonstrations to support other problems that necessitate extensions or delays.
- Flexibility for or deferred permit renewal applications for expiring permits of at least 90 days.
- Provide interim authority to construct and operate during application process.
- Appropriate flexibility with permittees that need the application process to go forward, rather than be delayed.
- Hold hearings on an electronic platform, if not possible in person, or suspend the hearing until feasible to hold the hearing.
- Implementation of Docu-sign, or similar electronic signature software, provisions for signing off on required reports and reporting leniency.
- Accept electronic signatures, hard copy mail, and proxy signatures for documents submitted to DEQ.
  - Additional 60 days to respond to anything mailed out in hard copy.
- Extension of planned rulemaking deadlines when stakeholder meetings are cancelled or postponed.
- Suspend finalizing new regulations that have gone through notice and comment due to limited time for the ability of the business to respond.
- Suspend inspections and discretionary on-site visits pending resolution of COVID-19 or for 60 days.
  - Inspectors or on-site visitors shall be subject to health screening questions, including but not limited to having temperature taken.

- An extension of 8 days for filing or providing follow up for immediately reportable events that require calculation to determine whether DEQ should be notified due to exceeding an hourly limit.
- Reasonable accommodation for missed sampling for discharge monitoring reports and extension of deadlines for DMRs to be completed and submitted with missing data.
- Extension for repair or reporting if a leak is found through LDAR before or during a time of reduced staffing.
- Maximum flexibility due to environmentally critical instruments may experience a delay in their required calibration.
- Increase of hold time for offal, end product, and other materials on site for processing and rendering facilities.
- Opacity/Visible Emissions readings – Reduce daily frequency to weekly readings for all locations where required.
- CY2019 Annual Emission Inventory (SLEIS) report required by the Office of Air Quality. Current deadline is April 30, extend by 60 days.
- Delay in the timing of required calibration of instruments (backflow prevention, wastewater flowmeter), state boiler inspections, tune-ups/NOx testing pre-ozone season.
- Suspend data collection reports and benchmarks reporting for 6 months. Not essential for compliance efforts.
- Reciprocity for the licensing of WW operators and drinking water operators
- Waiver to use a certified lab from any state
- Reduce daily cyclone, bag house, scrubber checks to weekly
- Periodic certification and reporting:
  - Deferred filing of periodic reports
  - Filing of reports without the normal signatures (where plant manager or formal designee is unavailable), unless DocuSign or another similar signature software is adopted.
- Extension of 90 days for comments and response to issues with pending permits.
- Suspend state enforcement related due dates for 60-days.
  - If the suspension for state enforcement related due dates is not feasible, extend facility response requirement for 60-days.



- Extension of due dates for NPDES Permit applications.
- Relief from general stormwater permit / SWPPP inspections for construction activities.
  - Temporarily extend the 7-day frequency to 14 days and exclude the requirement of having to inspect within 24 hours of the end of a storm event of 0.25 inches or greater.
- Hazardous waste accumulation:
  - Deferral of movements past time limits, including the 3-day satellite accumulation time limit and 90-day accumulation time limit
  - Delayed reporting
- Effluent sampling and reporting:
  - Deferred sampling and WET testing
  - Deferred filing of periodic reports
  - Late lab turn-around time on sample results
  - Missed hold-time on samples
  - Delayed reporting
- Fugitive Leak Detection and Repair (LDAR):
  - Deferred LDAR monitoring
  - Late repair times
  - Late recheck of LDAR component after monitoring
  - Delayed reporting
- Soil or groundwater remediation:
  - Delayed sampling events
  - Delayed reporting
- CEMS and stack tests:
  - Late stack test
  - Late RATA test
  - Missed or late CEMS evaluation
  - Unable to repair CEMS due to the specialized knowledge vested in personnel
  - Unable to repair CEMS due to parts unavailability
  - Delayed reporting
- Cooling tower sampling:

- Delayed sampling and analysis
- Delayed reporting
- Fenceline monitoring:
  - Unable timely to change sample tubes
  - Disruptions in lab shipments
  - Lab analytical delays
  - Delayed reporting
- Self-audits:
  - Late Disclosures of Violation and other submittals on pending audits

Our request covers only those provisions requiring activities that are inconsistent with implementation of COVID-19 response, while maintaining safe and environmentally responsible operation. Facilities will continue to comply with regulatory requirements, when practical. The Division of Environmental Quality may ordinarily require the facility to demonstrate or prove relief is necessary; however, everyone nationwide is impacted at this point and, for the next 60-days, making a demonstration unnecessary.

Respectfully,



Ava F. Roberts  
Executive Director  
Arkansas Environmental Federation

*Copied via electronic mail and hard copy:*

*Governor Asa Hutchinson*  
*Caleb Stanton, Office of Governor Asa Hutchinson, Energy and Transportation Liaison*  
*Ken McQueen, EPA Region 6 Administrator*  
*David W. Gray, EPA Region 6 Deputy Regional Administrator*

**To:** Holmes, Carol[Holmes.Carol@epa.gov]  
**From:** King, Carol[/O=EXCHANGELABS/OU=EXCHANGE ADMINISTRATIVE GROUP (FYDIBOHF23SPDLT)/CN=RECIPIENTS/CN=D38C5B906A8F476F81D7BC657A6833A1-DEMARCO, CAROL]  
**Sent:** Tue 4/21/2020 1:41:44 PM (UTC)  
**Subject:** RE: COVID-19 Implications for EPA's Enforcement and Compliance Assurance Program

I will definitely make sure we cover the 3/26 policy and ESAs as the first two items! Thanks again!!

---

**From:** Holmes, Carol <Holmes.Carol@epa.gov>  
**Sent:** Tuesday, April 21, 2020 9:38 AM  
**To:** King, Carol <King.Carol@epa.gov>  
**Subject:** RE: COVID-19 Implications for EPA's Enforcement and Compliance Assurance Program

BTW - I have a conflict starting at 12:30 today....

May contain sensitive communication for internal deliberations only, attorney-client communication, attorney work product, and/or enforcement sensitive information. Do not distribute outside the U.S. Government.

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Carol S. Holmes  
Senior Counsel  
Crosscutting Policy Staff  
Office of Civil Enforcement (MC 2241A)  
U.S. Environmental Protection Agency  
1200 Pennsylvania Ave, NW  
Washington, DC 20460  
Phone (202) 564-8709

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**From:** King, Carol <King.Carol@epa.gov>  
**Sent:** Tuesday, April 21, 2020 9:28 AM  
**To:** Holmes, Carol <Holmes.Carol@epa.gov>; Harmon, Kenneth <Harmon.Kenneth@epa.gov>  
**Cc:** Wilson, Dane <Wilson.Dane@epa.gov>; Denton, Loren <Denton.Loren@epa.gov>  
**Subject:** FW: COVID-19 Implications for EPA's Enforcement and Compliance Assurance Program

# Ex. 5 Deliberative Process (DP)

Thanks,  
Carol

---

**From:** Riley, Pamela <Riley.Pamela@epa.gov>  
**Sent:** Tuesday, April 21, 2020 9:23 AM  
**To:** King, Carol <King.Carol@epa.gov>  
**Cc:** Hogan, James <hogan.james@epa.gov>; Harmon, Kenneth <Harmon.Kenneth@epa.gov>; Wilson, Dane <Wilson.Dane@epa.gov>; Holmes, Carol <Holmes.Carol@epa.gov>  
**Subject:** RE: COVID-19 Implications for EPA's Enforcement and Compliance Assurance Program

Good morning Carol,

Yes everything is good on my end I hope you & your family are staying safe as well.

I will be on the call at noon.  
I will see if my section/branch chief will be able to join the call as well to receive clarification.

Thank you very much I sincerely appreciate it.

Thanks,  
Pamela Y. Riley, MPH  
[Riley.pamela@epa.gov](mailto:Riley.pamela@epa.gov)  
(404) 562-9419 Office  
(404) 562-9439 Fax

---

**From:** King, Carol <[King.Carol@epa.gov](mailto:King.Carol@epa.gov)>  
**Sent:** Tuesday, April 21, 2020 2:20 AM  
**To:** Riley, Pamela <[Riley.Pamela@epa.gov](mailto:Riley.Pamela@epa.gov)>  
**Cc:** Hogan, James <[hogan.james@epa.gov](mailto:hogan.james@epa.gov)>; Harmon, Kenneth <[Harmon.Kenneth@epa.gov](mailto:Harmon.Kenneth@epa.gov)>; Wilson, Dane <[Wilson.Dane@epa.gov](mailto:Wilson.Dane@epa.gov)>; Holmes, Carol <[Holmes.Carol@epa.gov](mailto:Holmes.Carol@epa.gov)>  
**Subject:** RE: COVID-19 Implications for EPA’s Enforcement and Compliance Assurance Program

Hi Pamela,

Good to hear from you! I hope you’re staying safe and healthy. Yes, we can talk about the issues you note below and how they apply to aircraft public water systems. I’m copying my HQ colleagues. Are you joining our noon EST call on Tuesday? We could touch on these ADWR issues then or have a separate call?

Thanks,  
Carol

---

**From:** Riley, Pamela <[Riley.Pamela@epa.gov](mailto:Riley.Pamela@epa.gov)>  
**Sent:** Monday, April 20, 2020 6:45 PM  
**To:** King, Carol <[King.Carol@epa.gov](mailto:King.Carol@epa.gov)>  
**Subject:** RE: COVID-19 Implications for EPA’s Enforcement and Compliance Assurance Program

Hi Carol,

I have a quick question

Ex. 5 Deliberative Process (DP)

# Ex. 5 Deliberative Process (DP)

Thanks,  
Pamela Y. Riley, MPH  
[Riley.pamela@epa.gov](mailto:Riley.pamela@epa.gov)  
(404) 562-9419 Office  
(404) 562-9439 Fax

---

**From:** King, Carol <[King.Carol@epa.gov](mailto:King.Carol@epa.gov)>  
**Sent:** Thursday, March 26, 2020 2:33 PM  
**To:** Allenbach, Becky <[Allenbach.Bekky@epa.gov](mailto:Allenbach.Bekky@epa.gov)>; Bair, Rita <[bair.rita@epa.gov](mailto:bair.rita@epa.gov)>; Bergman, Ronald <[Bergman.Ronald@epa.gov](mailto:Bergman.Ronald@epa.gov)>; Biggs, Tonia <[Biggs.Tonia@epa.gov](mailto:Biggs.Tonia@epa.gov)>; Brignoni, Rosa <[Brignoni.Rosa@epa.gov](mailto:Brignoni.Rosa@epa.gov)>; Busterud, Gretchen <[Busterud.Gretchen@epa.gov](mailto:Busterud.Gretchen@epa.gov)>;

Campbell, Rich <Campbell.Rich@epa.gov>; Clark, Jacqueline <clark.jacqueline@epa.gov>; Denton, Loren <Denton.Loren@epa.gov>; Donahue, Lisa <Donahue.Lisa@epa.gov>; Downing, Jane <Downing.Jane@epa.gov>; Driskell, Amanda <Driskell.Amanda@epa.gov>; Evans-Walker, Daria <evans-walker.daria@epa.gov>; Glowacki, Joanna <glowacki.joanna@epa.gov>; Harmon, Kenneth <Harmon.Kenneth@epa.gov>; Hecht, Hillary <Hecht.Hillary@epa.gov>; Wittenberg, Olive <Wittenberg.Olive@epa.gov>; Hollimon, Shelia <Hollimon.Shelia@epa.gov>; Huffman, Diane <Huffman.Diane@epa.gov>; Kahn, Lisa <Kahn.Lisa@epa.gov>; Keith, Elinor <Keith.Elinor@epa.gov>; Kraft, Nicole <Kraft.Nicole@epa.gov>; Lagunas, Frank <lagunas.frank@epa.gov>; Lee, Bessie <Lee.Bessie@epa.gov>; Lester, Miriam <Lester.Miriam@epa.gov>; Li, Corine <Li.Corine@epa.gov>; Livingston, Peggy <Livingston.Peggy@epa.gov>; Marquess, Scott <Marquess.Scott@epa.gov>; Mathews, Namon <Mathews.Namon@epa.gov>; McCaffrey, Shawn <McCaffrey.Shawn@epa.gov>; McGuire, Karen <McGuire.Karen@epa.gov>; 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**Subject:** COVID-19 Implications for EPA's Enforcement and Compliance Assurance Program

**Importance:** High

<< File: Memorandum on COVID-19 Implications for EPAs Enforcement and Compliance Assurance Program (March 26, 2020).pdf >>

Attached is the policy OECA's AA issued earlier today (3/26). It will be on EPA's website and there will also be a press statement.

Thanks,  
Carol

Carol DeMarco King, Attorney-Advisor  
Municipal Enforcement Branch  
Water Enforcement Division  
Office of Enforcement and Compliance Assurance  
U.S. EPA  
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**To:** Holmes, Carol[Holmes.Carol@epa.gov]; Harmon, Kenneth[Harmon.Kenneth@epa.gov]  
**Cc:** Wilson, Dane[Wilson.Dane@epa.gov]; Denton, Loren[Denton.Loren@epa.gov]  
**From:** King, Carol[/O=EXCHANGELABS/OU=EXCHANGE ADMINISTRATIVE GROUP (FYDIBOHF23SPDLT)/CN=RECIPIENTS/CN=D38C5B906A8F476F81D7BC657A6833A1-DEMARCO, CAROL]  
**Sent:** Tue 4/21/2020 1:41:11 PM (UTC)  
**Subject:** RE: COVID-19 Implications for EPA's Enforcement and Compliance Assurance Program

Thanks!

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**From:** Holmes, Carol <Holmes.Carol@epa.gov>  
**Sent:** Tuesday, April 21, 2020 9:30 AM  
**To:** King, Carol <King.Carol@epa.gov>; Harmon, Kenneth <Harmon.Kenneth@epa.gov>  
**Cc:** Wilson, Dane <Wilson.Dane@epa.gov>; Denton, Loren <Denton.Loren@epa.gov>  
**Subject:** RE: COVID-19 Implications for EPA's Enforcement and Compliance Assurance Program

Tessa Berman is our OCE rep on the workgroup implementing EO 13892.

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**From:** King, Carol <King.Carol@epa.gov>  
**Sent:** Tuesday, April 21, 2020 9:28 AM  
**To:** Holmes, Carol <Holmes.Carol@epa.gov>; Harmon, Kenneth <Harmon.Kenneth@epa.gov>  
**Cc:** Wilson, Dane <Wilson.Dane@epa.gov>; Denton, Loren <Denton.Loren@epa.gov>  
**Subject:** FW: COVID-19 Implications for EPA's Enforcement and Compliance Assurance Program

# Ex. 5 Deliberative Process (DP)

Thanks,  
Carol

---

**From:** Riley, Pamela <Riley.Pamela@epa.gov>  
**Sent:** Tuesday, April 21, 2020 9:23 AM  
**To:** King, Carol <King.Carol@epa.gov>  
**Cc:** Hogan, James <hogan.james@epa.gov>; Harmon, Kenneth <Harmon.Kenneth@epa.gov>; Wilson, Dane <Wilson.Dane@epa.gov>; Holmes, Carol <Holmes.Carol@epa.gov>  
**Subject:** RE: COVID-19 Implications for EPA's Enforcement and Compliance Assurance Program

Good morning Carol,  
Yes everything is good on my end I hope you & your family are staying safe as well.

I will be on the call at noon.  
I will see if my section/branch chief will be able to join the call as well to receive clarification.

Thank you very much I sincerely appreciate it.

Thanks,  
Pamela Y. Riley, MPH  
[Riley.pamela@epa.gov](mailto:Riley.pamela@epa.gov)  
(404) 562-9419 Office  
(404) 562-9439 Fax

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**From:** King, Carol <[King.Carol@epa.gov](mailto:King.Carol@epa.gov)>  
**Sent:** Tuesday, April 21, 2020 2:20 AM  
**To:** Riley, Pamela <[Riley.Pamela@epa.gov](mailto:Riley.Pamela@epa.gov)>  
**Cc:** Hogan, James <[hogan.james@epa.gov](mailto:hogan.james@epa.gov)>; Harmon, Kenneth <[Harmon.Kenneth@epa.gov](mailto:Harmon.Kenneth@epa.gov)>; Wilson, Dane <[Wilson.Dane@epa.gov](mailto:Wilson.Dane@epa.gov)>; Holmes, Carol <[Holmes.Carol@epa.gov](mailto:Holmes.Carol@epa.gov)>  
**Subject:** RE: COVID-19 Implications for EPA's Enforcement and Compliance Assurance Program

Hi Pamela,

Good to hear from you! I hope you're staying safe and healthy. Yes, we can talk about the issues you note below and how they apply to aircraft public water systems. I'm copying my HQ colleagues. Are you joining our noon EST call on Tuesday? We could touch on these ADWR issues then or have a separate call?

Thanks,  
Carol

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**From:** Riley, Pamela <[Riley.Pamela@epa.gov](mailto:Riley.Pamela@epa.gov)>  
**Sent:** Monday, April 20, 2020 6:45 PM  
**To:** King, Carol <[King.Carol@epa.gov](mailto:King.Carol@epa.gov)>  
**Subject:** RE: COVID-19 Implications for EPA's Enforcement and Compliance Assurance Program

Hi Carol,

I have a quick question Ex. 5 Deliberative Process (DP)

# Ex. 5 Deliberative Process (DP)

Thanks,  
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**From:** King, Carol <[King.Carol@epa.gov](mailto:King.Carol@epa.gov)>  
**Sent:** Thursday, March 26, 2020 2:33 PM



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**Subject:** COVID-19 Implications for EPA's Enforcement and Compliance Assurance Program

**Importance:** High

<< File: Memorandum on COVID-19 Implications for EPAs Enforcement and Compliance Assurance Program (March 26, 2020).pdf >>

Attached is the policy OECA's AA issued earlier today (3/26). It will be on EPA's website and there will also be a press statement.

Thanks,  
Carol

Carol DeMarco King, Attorney-Advisor  
Municipal Enforcement Branch  
Water Enforcement Division  
Office of Enforcement and Compliance Assurance  
U.S. EPA  
1200 Pennsylvania Ave., NW  
Washington, DC 20460  
Phone: (202) 564-2412  
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**To:** Holmes, Carol[Holmes.Carol@epa.gov]; Harmon, Kenneth[Harmon.Kenneth@epa.gov]  
**Cc:** Wilson, Dane[Wilson.Dane@epa.gov]; Denton, Loren[Denton.Loren@epa.gov]  
**From:** King, Carol[/O=EXCHANGELABS/OU=EXCHANGE ADMINISTRATIVE GROUP (FYDIBOHF23SPDLT)/CN=RECIPIENTS/CN=D38C5B906A8F476F81D7BC657A6833A1-DEMARCO, CAROL]  
**Sent:** Tue 4/21/2020 1:28:23 PM (UTC)  
**Subject:** FW: COVID-19 Implications for EPA's Enforcement and Compliance Assurance Program

# Ex. 5 Deliberative Process (DP)

Thanks,  
Carol

---

**From:** Riley, Pamela <Riley.Pamela@epa.gov>  
**Sent:** Tuesday, April 21, 2020 9:23 AM  
**To:** King, Carol <King.Carol@epa.gov>  
**Cc:** Hogan, James <hogan.james@epa.gov>; Harmon, Kenneth <Harmon.Kenneth@epa.gov>; Wilson, Dane <Wilson.Dane@epa.gov>; Holmes, Carol <Holmes.Carol@epa.gov>  
**Subject:** RE: COVID-19 Implications for EPA's Enforcement and Compliance Assurance Program

Good morning Carol,  
Yes everything is good on my end I hope you & your family are staying safe as well.

I will be on the call at noon.  
I will see if my section/branch chief will be able to join the call as well to receive clarification.

Thank you very much I sincerely appreciate it.

Thanks,  
Pamela Y. Riley, MPH  
[Riley.pamela@epa.gov](mailto:Riley.pamela@epa.gov)  
(404) 562-9419 Office  
(404) 562-9439 Fax

---

**From:** King, Carol <King.Carol@epa.gov>  
**Sent:** Tuesday, April 21, 2020 2:20 AM  
**To:** Riley, Pamela <Riley.Pamela@epa.gov>  
**Cc:** Hogan, James <hogan.james@epa.gov>; Harmon, Kenneth <Harmon.Kenneth@epa.gov>; Wilson, Dane <Wilson.Dane@epa.gov>; Holmes, Carol <Holmes.Carol@epa.gov>  
**Subject:** RE: COVID-19 Implications for EPA's Enforcement and Compliance Assurance Program

Hi Pamela,

Good to hear from you! I hope you're staying safe and healthy. Yes, we can talk about the issues you note below and how they apply to aircraft public water systems. I'm copying my HQ colleagues. Are you joining our noon EST call on Tuesday? We could touch on these ADWR issues then or have a separate call?

Thanks,  
Carol

**From:** Riley, Pamela <Riley.Pamela@epa.gov>  
**Sent:** Monday, April 20, 2020 6:45 PM  
**To:** King, Carol <King.Carol@epa.gov>  
**Subject:** RE: COVID-19 Implications for EPA's Enforcement and Compliance Assurance Program

Hi Carol,  
I have a quick question

Ex. 5 Deliberative Process (DP)

# Ex. 5 Deliberative Process (DP)

Thanks,  
Pamela Y. Riley, MPH  
[Riley.pamela@epa.gov](mailto:Riley.pamela@epa.gov)  
(404) 562-9419 Office  
(404) 562-9439 Fax

**From:** King, Carol <King.Carol@epa.gov>  
**Sent:** Thursday, March 26, 2020 2:33 PM  
**To:** Allenbach, Becky <Allenbach.Bekky@epa.gov>; Bair, Rita <bair.rita@epa.gov>; Bergman, Ronald <Bergman.Ronald@epa.gov>; Biggs, Tonia <Biggs.Tonia@epa.gov>; Brignoni, Rosa <Brignoni.Rosa@epa.gov>; Busterud, Gretchen <Busterud.Gretchen@epa.gov>; Campbell, Rich <Campbell.Rich@epa.gov>; Clark, Jacqueline <clark.jacqueline@epa.gov>; Denton, Loren <Denton.Loren@epa.gov>; Donahue, Lisa <Donahue.Lisa@epa.gov>; Downing, Jane <Downing.Jane@epa.gov>; Driskell, Amanda <Driskell.Amanda@epa.gov>; Evans-Walker, Daria <evans-walker.daria@epa.gov>; Glowacki, Joanna <glowacki.joanna@epa.gov>; Harmon, Kenneth <Harmon.Kenneth@epa.gov>; Hecht, Hillary <Hecht.Hillary@epa.gov>; Wittenberg, Olive <Wittenberg.Olive@epa.gov>; Hollimon, Shelia <Hollimon.Shelia@epa.gov>; Huffman, Diane <Huffman.Diane@epa.gov>; Kahn, Lisa <Kahn.Lisa@epa.gov>; Keith, Elinor <Keith.Elinor@epa.gov>; Kraft, Nicole <Kraft.Nicole@epa.gov>; Lagunas, Frank <lagunas.frank@epa.gov>; Lee, Bessie <Lee.Bessie@epa.gov>; Lester, Miriam <Lester.Miriam@epa.gov>; Li, Corine <Li.Corine@epa.gov>; Livingston, Peggy <Livingston.Peggy@epa.gov>; Marquess, Scott <Marquess.Scott@epa.gov>; Mathews, Namon <Mathews.Namon@epa.gov>; McCaffrey, Shawn <McCaffrey.Shawn@epa.gov>; McGuire, Karen <McGuire.Karen@epa.gov>; Meadows, Anthony <Meadows.Anthony@epa.gov>; Meredith, David <Meredith.David@epa.gov>; Minter, Jill <Minter.Jill@epa.gov>; Murphy, Thomas <murphy.thomas@epa.gov>; Palagian, Evangelia <Palagian.Evangelia@epa.gov>; Pollins, Mark <Pollins.Mark@epa.gov>; Porter, Andrea <porter.andrea@epa.gov>; Poy, Thomas <poy.thomas@epa.gov>; Prabhu, Aditi <Prabhu.Aditi@epa.gov>; Pringle, Everett <Pringle.Everett@epa.gov>; Reinhart, Roger <Reinhart.Roger@epa.gov>; Rogers, Harold <Rogers.Harold@epa.gov>; Roland, Kevin <Roland.Kevin@epa.gov>; Rota, Ken <rota.ken@epa.gov>; Shoven, Heather <shoven.heather@epa.gov>; Sinon, Kara <Sinon.Kara@epa.gov>; Smith, Brian <Smith.Brian@epa.gov>; Taheri, Mehdi <taheri.mehdi@epa.gov>; Thurmon, Clarke <Thurmon.Clarke@epa.gov>; Vinciguerra, Amy <Vinciguerra.Amy@epa.gov>; Wehling, Carrie <Wehling.Carrie@epa.gov>; Winiecki, Eric <Winiecki.Eric@epa.gov>; Wormbly, Dorothy <wormbly.dorothy@epa.gov>; Shareem, Jelani <Shareem.Jelani@epa.gov>; Rodriguez, Roberto <Rodriguez.Roberto@epa.gov>; Chen, Christopher <CHEN.CHRISTOPHER@EPA.GOV>; Segall, Martha <Segall.Martha@epa.gov>; Makepeace, Caroline <Makepeace.Caroline@epa.gov>; Binder, Jonathan <Binder.Jonathan@epa.gov>; Rice, Cassandra <rice.cassandra@epa.gov>; Yen, Anna <Yen.Anna@epa.gov>; Bahrman, Sarah <Bahrman.Sarah@epa.gov>; Branning, Hannah <Branning.Hannah@epa.gov>; Harris, Jamie S. <Harris.Jamie@epa.gov>; Gambatese, Jason <Gambatese.Jason@epa.gov>; Hall, Chelo <Hall.Chelo@epa.gov>; Deason, Ken <Deason.Ken@epa.gov>; Baron, Adam <Baron.Adam@epa.gov>; Knapp, Michael <Knapp.Michael@epa.gov>; Bearley, Mia <Bearley.Mia@epa.gov>; Manheimer, Jenna <Manheimer.Jennifer@epa.gov>; Campbell-Dunbar, Shawneille <Campbell-Dunbar.Shawneille@epa.gov>; Shelton, Anthony <Shelton.Anthony@epa.gov>; Sessoms-Midgett, Stephanie <Sessoms-Midgett.Stephanie@epa.gov>; Moriarty, Edward <Moriarty.EdwardJ@epa.gov>; Fergusson, Bruce <Fergusson.Bruce@epa.gov>; Brune, Doug <Brune.Doug@epa.gov>; Cohen, Amy <Cohen.Amy@epa.gov>; Albright, David <Albright.David@epa.gov>; Peterson, David <Peterson.David@epa.gov>; Finn, Michael <Finn.Michael@epa.gov>; McKenna, Douglas <McKenna.Douglas@epa.gov>; Saunders, Jerry <Saunders.Jerry@epa.gov>; Chow, James <chow.james@epa.gov>; Lieben, Ivan <Lieben.Ivan@epa.gov>; Contreras, Peter <Contreras.Peter@epa.gov>; Holmes, Carol <Holmes.Carol@epa.gov>; Taveras, Raquel <Taveras.Raquel@epa.gov>; Collins, Charlie <collins.charlie@epa.gov>; Wilson, Dane <Wilson.Dane@epa.gov>; Dain, Gregory <Dain.Greg@epa.gov>; Watanabe, Allison <Watanabe.Allison@epa.gov>; Azad, Ava <Azad.Ava@epa.gov>; Wilson, Jennifer <wilson.jenniferA@epa.gov>; Chavez, Araceli <Chavez.Araceli@epa.gov>; Cantor, Tiffany <Cantor.Tiffany@epa.gov>; Carroll, Christina <carroll.christina@epa.gov>; Reynolds, Lori <Reynolds.Lori@epa.gov>; Rogers, Rick <rogers.rick@epa.gov>; Berg, Elizabeth

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**Cc:** Muller, Marie <MULLER.MARIE@EPA.GOV>; Magnuson, Janet <Magnuson.Janet@epa.gov>; Sallach, Andrew <Sallach.Andrew@epa.gov>; Rapicavoli, Emmanuelle <Rapicavoli.Emmanuelle@epa.gov>; Tsai, Yun-Jui <Tsai.Yun-Jui@epa.gov>; Jenzen, Jacob <Jenzen.Jacob@epa.gov>; Muehlberger, Christopher <muehlberger.christopher@epa.gov>; Tipton, Lantz <tipton.lantz@epa.gov>; Harris, Bryant <harris.bryant@epa.gov>; Tarquinio, Ellen <Tarquinio.Ellen@epa.gov>; Viveiros, Edward <Viveiros.Edward@epa.gov>; Ireland, Laurie <Ireland.Laurie@epa.gov>; BERMAN, TESSA <Berman.Tessa@epa.gov>; Hogan, James <hogan.james@epa.gov>; Bradbury, Sarah <bradbury.sarah@epa.gov>; Pratt, David <Pratt.David@epa.gov>; Anderson, Arlene <Anderson.Arlene@epa.gov>; Elliott, Richard <Elliott.Richard@epa.gov>; Crumlish, Karen <Crumlish.Karen@epa.gov>; VanTil, Barbara <vantil.barbara@epa.gov>; Albert, Ryan <Albert.Ryan@epa.gov>; Morrison, Kendra <Morrison.Kendra@epa.gov>; Ghosh, Mita <Ghosh.Mita@epa.gov>; Elder-Schweers, Pam <Elder-Schweers.Pam@epa.gov>; Engelman, Alexa <ENGELMAN.ALEXA@EPA.GOV>; Duvil, Ricardi <duvil.ricardi@epa.gov>; Latino, Steven <latino.steven@epa.gov>; Murphy, Elizabeth <Murphy.Elizabeth@epa.gov>; Moody, Jonathan <moody.jonathan@epa.gov>; Peachey, Robert <peachey.robert@epa.gov>; Kenknight, Jeff <Kenknight.Jeff@epa.gov>; Dinsmore, Andrew <Dinsmore.Andrew@epa.gov>; Breedlove, Dan <Breedlove.Dan@epa.gov>; Young, Craig <Young.Craig@epa.gov>; Walsh, Elizabeth <Walsh.Elizabeth@epa.gov>; Girouard, Taylor <Girouard.Taylor@epa.gov>; Klinger, Adam <Klinger.Adam@epa.gov>; Riley, Pamela <Riley.Pamela@epa.gov>; Smith, Kira <Smith.Kira@epa.gov>; Quinones, Rebecca <quinones.rebecca@epa.gov>; Bahr, Ryan <bahr.ryan@epa.gov>; D'Alfonso, Brian <dalfonso.brian@epa.gov>; Paradise, Laura <Paradise.Laura@epa.gov>; Robinson, Tierra <Robinson.Tierra@epa.gov>; Dean, Jill <Dean.Jill@epa.gov>; Spalt, Nicholas <Spalt.Nicholas@epa.gov>; Maraldo, Dean <Maraldo.Dean@epa.gov>; Rountree, Jillian <Rountree.Jillian@epa.gov>; Mikalian, Charles <mikalian.charles@epa.gov>; Bauer, Candice <bauer.candice@epa.gov>; Baranowski, Curt <Baranowski.Curt@epa.gov>; Dokken, Victoria <Dokken.Victoria@epa.gov>; Garcia, Vanessa <Garcia.Vanessa@epa.gov>; Edwards, Alyssa <edwards.alyssa@epa.gov>; Randall, Sarah <Randall.Sarah@epa.gov>

**Subject:** COVID-19 Implications for EPA's Enforcement and Compliance Assurance Program

**Importance:** High

<< File: Memorandum on COVID-19 Implications for EPA's Enforcement and Compliance Assurance Program (March 26, 2020).pdf >>

Attached is the policy OECA's AA issued earlier today (3/26). It will be on EPA's website and there will also be a press statement.

Thanks,  
 Carol

Carol DeMarco King, Attorney-Advisor  
 Municipal Enforcement Branch  
 Water Enforcement Division  
 Office of Enforcement and Compliance Assurance

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**Ex. 6 PP / Ex. 7(C)**

**To:** Holmes, Carol[Holmes.Carol@epa.gov]; robert.yalen  
**Cc:** Doud, Rachael (USANYS) Ex. 6 PP / Ex. 7(C) Purdy, Angeline (ENRD) Ex. 6 PP / Ex. 7(C) Talty, Mark[Talty.Mark@epa.gov]; Simons, Andrew[Simons.Andrew@epa.gov]; Prabhu, Aditi[Prabhu.Aditi@epa.gov]  
**From:** Issacharoff, Lucas (USANYS) Ex. 6 PP / Ex. 7(C)  
**Sent:** Thur 5/28/2020 9:57:16 PM (UTC)  
**Subject:** RE: OECA Declaration -- Ex. 5 AC/AWP/DP  
Draft Starfield Declaration (OECA) NRDC v Bodine v5.2.docx

Okay, sorry for confusion! We like your 5.1, so I accepted those changes and made a couple of very minor edits – see attached 5.2. Let me know if any concerns, otherwise good to finalize and sign.

Thanks,  
Lucas

---

**From:** Holmes, Carol <Holmes.Carol@epa.gov>  
**Sent:** Thursday, May 28, 2020 4:31 PM  
**To:** Yalen, Robert (USANYS) Ex. 6 PP / Ex. 7(C)  
**Cc:** Issacharoff, Lucas (USANYS) Ex. 6 PP / Ex. 7(C) Doud, Rachael (USANYS) Ex. 6 PP / Ex. 7(C); Purdy, Angeline (ENRD) Ex. 6 PP / Ex. 7(C) Talty, Mark <Talty.Mark@epa.gov>; Simons, Andrew <Simons.Andrew@epa.gov>; Prabhu, Aditi <Prabhu.Aditi@epa.gov>  
**Subject:** RE: OECA Declaration -- Ex. 5 AC/AWP/DP

Hi Rob – Sorry, I work faster than that! I already undid prior edits and added new ones per email below – which is v5 attached. I looked at OneDrive, and alas, the short-lived version with your suggested edits wasn't saved. But I tried to recreate it in v5.1.

**Ex. 5 AC/AWP/DP**

Thanks!

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---

Carol S. Holmes  
Senior Counsel  
Crosscutting Policy Staff  
Office of Civil Enforcement (MC 2241A)  
U.S. Environmental Protection Agency  
1200 Pennsylvania Ave, NW  
Washington, DC 20460  
Phone (202) 564-8709

---

**From:** Yalen, Robert (USANYS) Ex. 6 PP / Ex. 7(C)  
**Sent:** Thursday, May 28, 2020 4:06 PM  
**To:** Holmes, Carol <Holmes.Carol@epa.gov>  
**Subject:** RE: OECA Declaration -- Ex. 5 AC/AWP/DP

**Ex. 5 AC/AWP/DP**

---

**From:** Holmes, Carol <Holmes.Carol@epa.gov>  
ED\_004611G\_00015888-00001

OECA COVID-19 2020  
FOIAs\_Production006

**Sent:** Thursday, May 28, 2020 3:55 PM

**To:** Yalen, Robert (USANYS) [Ex. 6 PP / Ex. 7(C)] Doud, Rachael (USANYS) [Ex. 6 PP / Ex. 7(C)] Talty, Mark <Talty.Mark@epa.gov>; Issacharoff, Lucas (USANYS) [Ex. 6 PP / Ex. 7(C)]

**Cc:** Simons, Andrew <Simons.Andrew@epa.gov>; Prabhu, Aditi <Prabhu.Aditi@epa.gov>; Purdy, Angeline (ENRD)

[Ex. 6 PP / Ex. 7(C)]

**Subject:** RE: OECA Declaration -- [Ex. 5 AC/AWP/DP]

Killing me –just made edits in response to your original email while on a call. :-)

Thanks, I'll undo those edits and make the new ones below.

[Ex. 5 AC/AWP/DP]

[Ex. 5 AC/AWP/DP]

**Ex. 5 AC/AWP/DP**

Thanks!

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---

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---

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**From:** Yalen, Robert (USANYS) [Ex. 6 PP / Ex. 7(C)]

**Sent:** Thursday, May 28, 2020 3:44 PM

**To:** Holmes, Carol <Holmes.Carol@epa.gov>; Doud, Rachael (USANYS) [Ex. 6 PP / Ex. 7(C)] Talty, Mark <Talty.Mark@epa.gov>; Issacharoff, Lucas (USANYS) [Ex. 6 PP / Ex. 7(C)]

**Cc:** Simons, Andrew <Simons.Andrew@epa.gov>; Prabhu, Aditi <Prabhu.Aditi@epa.gov>; Purdy, Angeline (ENRD)

[Ex. 6 PP / Ex. 7(C)]

**Subject:** OECA Declaration -- [Ex. 5 AC/AWP/DP]

So, Lucas has talked me off the ledge. You can ignore my comments in the email below

[Ex. 5 AC/AWP/DP]

**Ex. 5 AC/AWP/DP**

---

**From:** Holmes, Carol <Holmes.Carol@epa.gov>



**Sent:** Thursday, May 28, 2020 1:50 PM

**To:** Yalen, Robert (USANYS) **Ex. 6 PP / Ex. 7(C)**; Doud, Rachael (USANYS) **Ex. 6 PP / Ex. 7(C)**; Talty, Mark <Talty.Mark@epa.gov>; Issacharoff, Lucas (USANYS) **Ex. 6 PP / Ex. 7(C)**

**Cc:** Simons, Andrew <Simons.Andrew@epa.gov>; Prabhu, Aditi <Prabhu.Aditi@epa.gov>; Purdy, Angeline (ENRD)

**Ex. 6 PP / Ex. 7(C)**

**Subject:** RE: NRDC v. Bodine - Complete Draft

Hi Rob – please see my responses below. Are separate comments coming on the declaration? We were hoping it was done except all but the signing.... This means we probably can't get it signed today b/c folks here will need to review the revised version and be comfortable with it.

# Ex. 5 AC/AWP/DP

Thanks!

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---

Carol S. Holmes  
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Office of Civil Enforcement (MC 2241A)  
U.S. Environmental Protection Agency  
1200 Pennsylvania Ave, NW  
Washington, DC 20460  
Phone (202) 564-8709

---

---

**From:** Yalen, Robert (USANYS) **Ex. 6 PP / Ex. 7(C)**

**Sent:** Thursday, May 28, 2020 1:14 PM

**To:** Holmes, Carol <Holmes.Carol@epa.gov>; Doud, Rachael (USANYS) **Ex. 6 PP / Ex. 7(C)**; Talty, Mark <Talty.Mark@epa.gov>; Issacharoff, Lucas (USANYS) **Ex. 6 PP / Ex. 7(C)**

**Cc:** Simons, Andrew <Simons.Andrew@epa.gov>; Prabhu, Aditi <Prabhu.Aditi@epa.gov>; Purdy, Angeline (ENRD)

**Ex. 6 PP / Ex. 7(C)**

**Subject:** RE: NRDC v. Bodine - Complete Draft

The team will circulate a few comments on Larry's declaration related to the current brief.

# Ex. 5 AC/AWP/DP

# **Ex. 5 AC/AWP/DP**

**Sent:** Thursday, May 28, 2020 10:32 AM

**To:** Doud, Rachael (USANYS) **Ex. 6 PP / Ex. 7(C)** Talty, Mark <Talty.Mark@epa.gov>; Issacharoff, Lucas (USANYS)

**Ex. 6 PP / Ex. 7(C)** Yalen, Robert (USANYS) **Ex. 6 PP / Ex. 7(C)**

**Cc:** Simons, Andrew <Simons.Andrew@epa.gov>; Prabhu, Aditi <Prabhu.Aditi@epa.gov>; Purdy, Angeline (ENRD)

**Ex. 6 PP / Ex. 7(C)**

**Subject:** RE: NRDC v. Bodine - Complete Draft

Thanks Rachel – attached is what I hope is the final draft of the OECA declaration. In addition to checking formatting, etc., please see the comment balloon conversation **Ex. 5 AC/AWP/DP**

**Ex. 5 AC/AWP/DP**

**Ex. 5 AC/AWP/DP** Thanks!

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---

Carol S. Holmes  
Senior Counsel  
Crosscutting Policy Staff  
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1200 Pennsylvania Ave, NW  
Washington, DC 20460  
Phone (202) 564-8709

---

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**From:** Doud, Rachael (USANYS) **Ex. 6 PP / Ex. 7(C)**

**Sent:** Thursday, May 28, 2020 10:20 AM

**To:** Holmes, Carol <Holmes.Carol@epa.gov>; Talty, Mark <Talty.Mark@epa.gov>; Issacharoff, Lucas (USANYS)

**Ex. 6 PP / Ex. 7(C)** robert.yalen **Ex. 6 PP / Ex. 7(C)**

**Cc:** Simons, Andrew <Simons.Andrew@epa.gov>; Prabhu, Aditi <Prabhu.Aditi@epa.gov>; Purdy, Angeline (ENRD)

**Ex. 6 PP / Ex. 7(C)**

**Subject:** RE: NRDC v. Bodine - Complete Draft

Thanks, Carol. I do think we should use page numbers, and the declarations should have the case caption on them. Can you send us a draft before finalized so we can review any make any adjustments?

It sounds like others at our Office have been using e-signatures for declarations so I think that would be fine if it's not feasible to get an ink signature.

---

**From:** Holmes, Carol <Holmes.Carol@epa.gov>

**Sent:** Thursday, May 28, 2020 8:19 AM

**To:** Doud, Rachael (USANYS) **Ex. 6 PP / Ex. 7(C)** Talty, Mark <Talty.Mark@epa.gov>; Issacharoff, Lucas (USANYS)

**Ex. 6 PP / Ex. 7(C)** Yalen, Robert (USANYS) **Ex. 6 PP / Ex. 7(C)**

**Cc:** Simons, Andrew <Simons.Andrew@epa.gov>; Prabhu, Aditi <Prabhu.Aditi@epa.gov>; Purdy, Angeline (ENRD)

**Ex. 6 PP / Ex. 7(C)**

**Subject:** RE: NRDC v. Bodine - Complete Draft

Good Morning Everyone!

I'm working on finalizing the OECA declaration, and wanted to check regarding any final formatting requirements (e.g., page number or not, margins, font), and also check to see what you've learned about e-signatures.

Thanks! Carol

Carol S. Holmes  
Senior Counsel  
Crosscutting Policy Staff  
Office of Civil Enforcement (MC 2241A)  
U.S. Environmental Protection Agency  
1200 Pennsylvania Ave, NW  
Washington, DC 20460  
Phone (202) 564-8709

**From:** Doud, Rachael (USANYS) [Ex. 6 PP / Ex. 7(C)]  
**Sent:** Wednesday, May 27, 2020 2:56 PM  
**To:** Talty, Mark <Talty.Mark@epa.gov>; Issacharoff, Lucas (USANYS) [Ex. 6 PP / Ex. 7(C)]; robert.yalen [Ex. 6 PP / Ex. 7(C)]  
**Cc:** Simons, Andrew <Simons.Andrew@epa.gov>; Prabhu, Aditi <Prabhu.Aditi@epa.gov>; Holmes, Carol <Holmes.Carol@epa.gov>; Purdy, Angeline (ENRD) [Ex. 6 PP / Ex. 7(C)]  
**Subject:** RE: NRDC v. Bodine - Complete Draft

All,

Here's an updated draft incorporating the edits from earlier. [Ex. 5 AC/AWP/DP]

**Ex. 5 AC/AWP/DP**

Thanks,

Rachael

**From:** Talty, Mark <Talty.Mark@epa.gov>  
**Sent:** Wednesday, May 27, 2020 6:34 AM  
**To:** Issacharoff, Lucas (USANYS) [Ex. 6 PP / Ex. 7(C)]; Yalen, Robert (USANYS) [Ex. 6 PP / Ex. 7(C)]  
**Cc:** Simons, Andrew <Simons.Andrew@epa.gov>; Prabhu, Aditi <Prabhu.Aditi@epa.gov>; Doud, Rachael (USANYS) [Ex. 6 PP / Ex. 7(C)]; Holmes, Carol <Holmes.Carol@epa.gov>; Purdy, Angeline (ENRD) [Ex. 6 PP / Ex. 7(C)]  
**Subject:** RE: NRDC v. Bodine - Complete Draft

Lucas & Rachel,

Attached please find EPA's comments on the latest version. [Ex. 5 AC/AWP/DP]

**Ex. 5 AC/AWP/DP**

Thanks for all of your hard work – it is reflected in the brief.

Best regards,

Mark

Mark C. Talty  
Cross-Cutting Issues Law Office  
Office of General Counsel  
U.S. Environmental Protection Agency  
(202) 564-1262  
talty.mark@epa.gov

**From:** Issacharoff, Lucas (USANYS) **Ex. 6 PP / Ex. 7(C)**  
**Sent:** Tuesday, May 26, 2020 9:46 AM  
**To:** Holmes, Carol <Holmes.Carol@epa.gov>; Talty, Mark <Talty.Mark@epa.gov>; robert.yalen **Ex. 6 PP / Ex. 7(C)**  
**Cc:** Simons, Andrew <Simons.Andrew@epa.gov>; Prabhu, Aditi <Prabhu.Aditi@epa.gov>; Doud, Rachael (USANYS)  
**Ex. 6 PP / Ex. 7(C)**; Purdy, Angeline (ENRD) **Ex. 6 PP / Ex. 7(C)**  
**Subject:** NRDC v. Bodine - Complete Draft

All,

Please see attached a complete draft of the NRDC v. Bodine brief. A few point we wanted to raise:

# Ex. 5 AC/AWP/DP

Best,  
Lucas

**From:** Holmes, Carol <Holmes.Carol@epa.gov>  
**Sent:** Tuesday, May 26, 2020 7:42 AM  
**To:** Talty, Mark <Talty.Mark@epa.gov>; Issacharoff, Lucas (USANYS) **Ex. 6 PP / Ex. 7(C)**; Yalen, Robert (USANYS)  
**Ex. 6 PP / Ex. 7(C)**  
**Cc:** Simons, Andrew <Simons.Andrew@epa.gov>; Prabhu, Aditi <Prabhu.Aditi@epa.gov>; Doud, Rachael (USANYS)  
**Ex. 6 PP / Ex. 7(C)** Purdy, Angeline (ENRD) **Ex. 6 PP / Ex. 7(C)**  
**Subject:** RE: NRDC v. Bodine - Argument Section

FYI – article in Inside EPA today about a paper on the Temporary Enforcement Policy by group at the NYU School of Law (attached).

## IPI finds EPA COVID enforcement policy troubling but not sweeping

May 22, 2020

The Institute for Policy Integrity (IPI) at New York University in a new analysis finds EPA's controversial enforcement policy during the COVID-19 pandemic is potentially troubling for public health and the environment but that it "has important limitations in both scope and subject matter and maintains some level of EPA enforcement."

The May 21 report warns of harms especially to environmental justice (EJ) communities and from certain types of pollution releases but it strikes a more balanced tone compared to former EPA officials and others who claim the March 26 policy effectively halted enforcement.

For example, Obama EPA chief Gina McCarthy called it "an open license to pollute," while former Obama enforcement chief Cynthia Giles said it was "essentially a nationwide waiver of environmental rules for the indefinite future."

Environmental groups filed suit last month in federal district court after EPA failed to respond to their petition urging the agency to require public disclosure when companies use the policy. Additionally, a group of Democratic-led states filed a lawsuit in the same court this month challenging the policy as unlawful on its face.

EPA and many industry attorneys largely defend the policy as responsible and limited in the midst of an unprecedented pandemic.

IPI argues that one of the "most alarming aspects" of the policy is its relaxation of routine monitoring and reporting, noting that tens of thousands of facilities are subject to self-monitoring and disclosure requirements. If an entity "acts in bad faith" and pollutes more than it is allowed, no one will know the extent of those emissions. Even when an entity acts in good faith, "it will be unknown whether, or to what extent" the plant surpassed its pollution limits.

The group adds the enforcement discretion has concerning implications for EJ communities, which face greater risks from COVID-19 and pollution. One type of reporting that could be eased is fence-line monitoring, which helps track air quality near high-polluting facilities often

located in these communities.

There are also potential consequences for hazardous waste generation sites and animal feeding operations, which could discharge toxic materials into waterways. "If a hazardous waste generation facility cannot transfer hazardous waste offsite due to COVID-19, it will not be considered a treatment, storage and disposal facility under the policy. The effects are potentially far-reaching and problematic," the report says. However, IPI's report also includes a section titled, "What the policy does not do." There, the group notes that it is "not a free pass or get out of jail free card" for polluters. EPA maintains discretion to decide whether noncompliance is a result of the coronavirus, or not. It also does not allow entities to indefinitely halt all reporting obligations, and stresses that EPA expects facilities to operate in a safe and protective manner. The policy "does not excuse exceedances of pollution limitations, and EPA will only consider the impacts of COVID-19 in cases where entities have notified EPA . . . to allow the agency to mitigate the risks or threats." However, it warns those limitations "may be meaningless" without reporting.

Finally, the policy is limited in that does not apply to criminal violations, or activities conducted under Superfund law or the Federal Insecticide, Fungicide and Rodenticide Act.

"In short, the level of harm caused by the policy will depend partially on how EPA chooses to implement it, with more lax oversight likely to increase environmental and public health risks," the report concludes.

Blurb: The Institute for Policy Integrity finds that EPA's controversial enforcement "discretion" policy during the coronavirus is potentially troubling but also has important limits.

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---

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U.S. Environmental Protection Agency  
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Washington, DC 20460  
Phone (202) 564-8709

---

---

**From:** Talty, Mark <Talty.Mark@epa.gov>

**Sent:** Friday, May 22, 2020 6:00 PM

**To:** Issacharoff, Lucas (USANYS) [Ex. 6 PP / Ex. 7(C)]; robert.yalen [Ex. 6 PP / Ex. 7(C)]

**Cc:** Simons, Andrew <Simons.Andrew@epa.gov>; Prabhu, Aditi <Prabhu.Aditi@epa.gov>; Holmes, Carol <Holmes.Carol@epa.gov>;

Doud, Rachael (USANYS) [Ex. 6 PP / Ex. 7(C)]; Purdy, Angeline (ENRD) [Ex. 6 PP / Ex. 7(C)]

**Subject:** RE: NRDC v. Bodine - Argument Section

Lucas & Rachel,

Attached please find EPA's consolidated comments on the draft argument section. The EPA team thought that you all did a really good job with this first draft. We appreciate all of your hard work on this matter.

Please let us know if you have questions as you work through the comments. I'm sure we'll need to touch base on Tuesday to see where we stand.

I hope everyone enjoys as much of the holiday weekend as is possible under the current circumstances.

Best regards,

Mark

Mark C. Talty  
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(202) 564-1262  
[talty.mark@epa.gov](mailto:talty.mark@epa.gov)

**From:** Issacharoff, Lucas (USANYS) **Ex. 6 PP / Ex. 7(C)**  
**Sent:** Thursday, May 21, 2020 6:54 PM  
**To:** Holmes, Carol <Holmes.Carol@epa.gov>; Talty, Mark <Talty.Mark@epa.gov>; Doud, Rachael (USANYS)  
**Ex. 6 PP / Ex. 7(C)**; robert.yalen **Ex. 6 PP / Ex. 7(C)**; Purdy, Angeline (ENRD) **Ex. 6 PP / Ex. 7(C)**  
**Cc:** Simons, Andrew <Simons.Andrew@epa.gov>; Prabhu, Aditi <Prabhu.Aditi@epa.gov>  
**Subject:** NRDC v. Bodine - Argument Section

All,

Thank you all for your patience. Please see attached a draft argument section. It clocks in at a hefty 27+ pages, so even with our extension to 40 total pages suggestions on where to trim back would be helpful.

Best,  
Lucas

---

**From:** Holmes, Carol <Holmes.Carol@epa.gov>  
**Sent:** Thursday, May 21, 2020 4:17 PM  
**To:** Talty, Mark <Talty.Mark@epa.gov>; Issacharoff, Lucas (USANYS) **Ex. 6 PP / Ex. 7(C)**; Doud, Rachael (USANYS)  
**Ex. 6 PP / Ex. 7(C)**; Yalen, Robert (USANYS) **Ex. 6 PP / Ex. 7(C)**; Purdy, Angeline (ENRD) **Ex. 6 PP / Ex. 7(C)**  
**Cc:** Simons, Andrew <Simons.Andrew@epa.gov>; Prabhu, Aditi <Prabhu.Aditi@epa.gov>  
**Subject:** RE: Revised 56.1 Statement

# Ex. 5 AC/AWP/DP

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---

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Washington, DC 20460  
Phone (202) 564-8709

---

**From:** Talty, Mark <Talty.Mark@epa.gov>  
**Sent:** Thursday, May 21, 2020 4:10 PM  
**To:** Issacharoff, Lucas (USANYS) **Ex. 6 PP / Ex. 7(C)**; Doud, Rachael (USANYS) **Ex. 6 PP / Ex. 7(C)**  
**Ex. 6 PP / Ex. 7(C)**; Purdy, Angeline (ENRD) **Ex. 6 PP / Ex. 7(C)**  
**Cc:** Holmes, Carol <Holmes.Carol@epa.gov>; Simons, Andrew <Simons.Andrew@epa.gov>; Prabhu, Aditi <Prabhu.Aditi@epa.gov>  
**Subject:** Revised 56.1 Statement

All,

Attached is the slightly revised version of our response to the Plaintiffs' 56.1 statement. Hopefully, this give you all enough to refine some of the more difficult responses consistent with yesterday's discussion.

Best regards,

Mark

ED\_004611G\_00015888-00009

OECA COVID-19 2020  
FOIAs\_Production006

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[talty.mark@epa.gov](mailto:talty.mark@epa.gov)



**To:** Issacharoff, Lucas (USANYS) [Ex. 6 PP / Ex. 7(C)] Talty, Mark[Talty.Mark@epa.gov]; Doud, Rachael (USANYS) [Ex. 6 PP / Ex. 7(C)] robert.yalen [Ex. 6 PP / Ex. 7(C)] Purdy, Angeline (ENRD) [Ex. 6 PP / Ex. 7(C)]  
**Cc:** Simons, Andrew[Simons.Andrew@epa.gov]; Prabhu, Aditi[Prabhu.Aditi@epa.gov]  
**From:** Holmes, Carol[/O=EXCHANGELABS/OU=EXCHANGE ADMINISTRATIVE GROUP (FYDIBOHF23SPDLT)/CN=RECIPIENTS/CN=A63F745584114AE9B119547A4DC845FD-HOLMES, CAROL]  
**Sent:** Fri 5/22/2020 3:36:40 PM (UTC)  
**Subject:** RE: Revised 56.1 Statement  
Draft Declaration - Petition Status (OECA) v.3.docx

PS – I wanted to provide the latest version of the OECA declaration, which [Ex. 5 AC/AWP/DP]  
[Ex. 5 AC/AWP/DP]

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Washington, DC 20460  
Phone (202) 564-8709

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**From:** Issacharoff, Lucas (USANYS) [Ex. 6 PP / Ex. 7(C)]  
**Sent:** Friday, May 22, 2020 11:07 AM  
**To:** Holmes, Carol <Holmes.Carol@epa.gov>; Talty, Mark <Talty.Mark@epa.gov>; Doud, Rachael (USANYS) [Ex. 6 PP / Ex. 7(C)]; robert.yalen [Ex. 6 PP / Ex. 7(C)] Purdy, Angeline (ENRD) [Ex. 6 PP / Ex. 7(C)]  
**Cc:** Simons, Andrew <Simons.Andrew@epa.gov>; Prabhu, Aditi <Prabhu.Aditi@epa.gov>  
**Subject:** RE: Revised 56.1 Statement

Carol,

Thank you (and Vickie!) for this. [Ex. 5 AC/AWP/DP]

**Ex. 5 AC/AWP/DP**

Best,  
Lucas

---

**From:** Holmes, Carol <Holmes.Carol@epa.gov>  
**Sent:** Thursday, May 21, 2020 4:17 PM  
**To:** Talty, Mark <Talty.Mark@epa.gov>; Issacharoff, Lucas (USANYS) [Ex. 6 PP / Ex. 7(C)]; Doud, Rachael (USANYS) [Ex. 6 PP / Ex. 7(C)]; Yalen, Robert (USANYS) [Ex. 6 PP / Ex. 7(C)]; Purdy, Angeline (ENRD) [Ex. 6 PP / Ex. 7(C)]  
**Cc:** Simons, Andrew <Simons.Andrew@epa.gov>; Prabhu, Aditi <Prabhu.Aditi@epa.gov>  
**Subject:** RE: Revised 56.1 Statement

**Ex. 5 AC/AWP/DP**

# Ex. 5 AC/AWP/DP

Ex. 5 AC/AWP/DP

Thanks!

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Crosscutting Policy Staff  
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1200 Pennsylvania Ave, NW  
Washington, DC 20460  
Phone (202) 564-8709

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**From:** Talty, Mark <Talty.Mark@epa.gov>

**Sent:** Thursday, May 21, 2020 4:10 PM

**To:** Issacharoff, Lucas (USANYS) Ex. 6 PP / Ex. 7(C) Doud, Rachael (USANYS) Ex. 6 PP / Ex. 7(C)  
robert.yalen Ex. 6 PP / Ex. 7(C) Purdy, Angeline (ENRD) Ex. 6 PP / Ex. 7(C)

**Cc:** Holmes, Carol <Holmes.Carol@epa.gov>; Simons, Andrew <Simons.Andrew@epa.gov>; Prabhu, Aditi <Prabhu.Aditi@epa.gov>

**Subject:** Revised 56.1 Statement

All,

Attached is the slightly revised version of our response to the Plaintiffs' 56.1 statement. Hopefully, this give you all enough to refine some of the more difficult responses consistent with yesterday's discussion.

Best regards,

Mark

Mark C. Talty  
Cross-Cutting Issues Law Office  
Office of General Counsel  
U.S. Environmental Protection Agency  
(202) 564-1262  
[talty.mark@epa.gov](mailto:talty.mark@epa.gov)

**To:** King, Carol[King.Carol@epa.gov]  
**From:** Holmes, Carol[/O=EXCHANGELABS/OU=EXCHANGE ADMINISTRATIVE GROUP (FYDIBOHF23SPDLT)/CN=RECIPIENTS/CN=A63F745584114AE9B119547A4DC845FD-HOLMES, CAROL]  
**Sent:** Tue 4/21/2020 1:38:27 PM (UTC)  
**Subject:** RE: COVID-19 Implications for EPA's Enforcement and Compliance Assurance Program

BTW - I have a conflict starting at 12:30 today....

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---

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Phone (202) 564-8709

---

---

**From:** King, Carol <King.Carol@epa.gov>  
**Sent:** Tuesday, April 21, 2020 9:28 AM  
**To:** Holmes, Carol <Holmes.Carol@epa.gov>; Harmon, Kenneth <Harmon.Kenneth@epa.gov>  
**Cc:** Wilson, Dane <Wilson.Dane@epa.gov>; Denton, Loren <Denton.Loren@epa.gov>  
**Subject:** FW: COVID-19 Implications for EPA's Enforcement and Compliance Assurance Program

# Ex. 5 Deliberative Process (DP)

Thanks,  
Carol

---

**From:** Riley, Pamela <Riley.Pamela@epa.gov>  
**Sent:** Tuesday, April 21, 2020 9:23 AM  
**To:** King, Carol <King.Carol@epa.gov>  
**Cc:** Hogan, James <hogan.james@epa.gov>; Harmon, Kenneth <Harmon.Kenneth@epa.gov>; Wilson, Dane <Wilson.Dane@epa.gov>; Holmes, Carol <Holmes.Carol@epa.gov>  
**Subject:** RE: COVID-19 Implications for EPA's Enforcement and Compliance Assurance Program

Good morning Carol,  
Yes everything is good on my end I hope you & your family are staying safe as well.

I will be on the call at noon.  
I will see if my section/branch chief will be able to join the call as well to receive clarification.

Thank you very much I sincerely appreciate it.

Thanks,  
Pamela Y. Riley, MPH

Riley.pamela@epa.gov  
(404) 562-9419 Office  
(404) 562-9439 Fax

**From:** King, Carol <King.Carol@epa.gov>  
**Sent:** Tuesday, April 21, 2020 2:20 AM  
**To:** Riley, Pamela <Riley.Pamela@epa.gov>  
**Cc:** Hogan, James <hogan.james@epa.gov>; Harmon, Kenneth <Harmon.Kenneth@epa.gov>; Wilson, Dane <Wilson.Dane@epa.gov>; Holmes, Carol <Holmes.Carol@epa.gov>  
**Subject:** RE: COVID-19 Implications for EPA's Enforcement and Compliance Assurance Program

Hi Pamela,

Good to hear from you! I hope you're staying safe and healthy. Yes, we can talk about the issues you note below and how they apply to aircraft public water systems. I'm copying my HQ colleagues. Are you joining our noon EST call on Tuesday? We could touch on these ADWR issues then or have a separate call?

Thanks,  
Carol

**From:** Riley, Pamela <Riley.Pamela@epa.gov>  
**Sent:** Monday, April 20, 2020 6:45 PM  
**To:** King, Carol <King.Carol@epa.gov>  
**Subject:** RE: COVID-19 Implications for EPA's Enforcement and Compliance Assurance Program

Hi Carol,  
I have a quick question.

Ex. 5 Deliberative Process (DP)

# Ex. 5 Deliberative Process (DP)

Thanks,  
Pamela Y. Riley, MPH  
Riley.pamela@epa.gov  
(404) 562-9419 Office  
(404) 562-9439 Fax

**From:** King, Carol <King.Carol@epa.gov>  
**Sent:** Thursday, March 26, 2020 2:33 PM  
**To:** Allenbach, Becky <Allebenach.Becky@epa.gov>; Bair, Rita <bair.rita@epa.gov>; Bergman, Ronald <Bergman.Ronald@epa.gov>; Biggs, Tonia <Biggs.Tonia@epa.gov>; Brignoni, Rosa <Brignoni.Rosa@epa.gov>; Busterud, Gretchen <Busterud.Gretchen@epa.gov>; Campbell, Rich <Campbell.Rich@epa.gov>; Clark, Jacqueline <clark.jacqueline@epa.gov>; Denton, Loren <Denton.Loren@epa.gov>; Donahue, Lisa <Donahue.Lisa@epa.gov>; Downing, Jane <Downing.Jane@epa.gov>; Driskell, Amanda <Driskell.Amanda@epa.gov>; Evans-Walker, Daria <evans-walker.daria@epa.gov>; Glowacki, Joanna <glowacki.joanna@epa.gov>; Harmon, Kenneth <Harmon.Kenneth@epa.gov>; Hecht, Hillary <Hecht.Hillary@epa.gov>; Wittenberg, Olive <Wittenberg.Olive@epa.gov>; Hollimon, Shelia <Hollimon.Shelia@epa.gov>; Huffman, Diane <Huffman.Diane@epa.gov>; Kahn, Lisa <Kahn.Lisa@epa.gov>; Keith, Elinor <Keith.Elinor@epa.gov>; Kraft, Nicole <Kraft.Nicole@epa.gov>; Lagunas, Frank <lagunas.frank@epa.gov>; Lee, Bessie <Lee.Bessie@epa.gov>; Lester, Miriam <Lester.Miriam@epa.gov>; Li, Corine <Li.Corine@epa.gov>; Livingston, Peggy <Livingston.Peggy@epa.gov>; Marquess, Scott <Marquess.Scott@epa.gov>; Mathews, Namon <Mathews.Namon@epa.gov>; McCaffrey, Shawn <McCaffrey.Shawn@epa.gov>; McGuire, Karen <McGuire.Karen@epa.gov>; Meadows, Anthony

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Curt <[Baranowski.Curt@epa.gov](mailto:Baranowski.Curt@epa.gov)>; Dokken, Victoria <[Dokken.Victoria@epa.gov](mailto:Dokken.Victoria@epa.gov)>; Garcia, Vanessa <[Garcia.Vanessa@epa.gov](mailto:Garcia.Vanessa@epa.gov)>;  
Edwards, Alyssa <[edwards.alyssa@epa.gov](mailto:edwards.alyssa@epa.gov)>; Randall, Sarah <[Randall.Sarah@epa.gov](mailto:Randall.Sarah@epa.gov)>  
**Subject:** COVID-19 Implications for EPA’s Enforcement and Compliance Assurance Program  
**Importance:** High

<< File: Memorandum on COVID-19 Implications for EPAs Enforcement and Compliance Assurance Program (March 26, 2020).pdf >>

Attached is the policy OECA’s AA issued earlier today (3/26). It will be on EPA’s website and there will also be a press statement.

Thanks,  
Carol

Carol DeMarco King, Attorney-Advisor  
Municipal Enforcement Branch  
Water Enforcement Division  
Office of Enforcement and Compliance Assurance  
U.S. EPA  
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**To:** King, Carol[King.Carol@epa.gov]; Harmon, Kenneth[Harmon.Kenneth@epa.gov]  
**Cc:** Wilson, Dane[Wilson.Dane@epa.gov]; Denton, Loren[Denton.Loren@epa.gov]  
**From:** Holmes, Carol[/O=EXCHANGELABS/OU=EXCHANGE ADMINISTRATIVE GROUP (FYDIBOHF23SPDLT)/CN=RECIPIENTS/CN=A63F745584114AE9B119547A4DC845FD-HOLMES, CAROL]  
**Sent:** Tue 4/21/2020 1:29:34 PM (UTC)  
**Subject:** RE: COVID-19 Implications for EPA's Enforcement and Compliance Assurance Program

Tessa Berman is our OCE rep on the workgroup implementing EO 13892.

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Carol S. Holmes  
Senior Counsel  
Crosscutting Policy Staff  
Office of Civil Enforcement (MC 2241A)  
U.S. Environmental Protection Agency  
1200 Pennsylvania Ave, NW  
Washington, DC 20460  
Phone (202) 564-8709

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**From:** King, Carol <King.Carol@epa.gov>  
**Sent:** Tuesday, April 21, 2020 9:28 AM  
**To:** Holmes, Carol <Holmes.Carol@epa.gov>; Harmon, Kenneth <Harmon.Kenneth@epa.gov>  
**Cc:** Wilson, Dane <Wilson.Dane@epa.gov>; Denton, Loren <Denton.Loren@epa.gov>  
**Subject:** FW: COVID-19 Implications for EPA's Enforcement and Compliance Assurance Program

## Ex. 5 Deliberative Process (DP)

Thanks,  
Carol

---

**From:** Riley, Pamela <Riley.Pamela@epa.gov>  
**Sent:** Tuesday, April 21, 2020 9:23 AM  
**To:** King, Carol <King.Carol@epa.gov>  
**Cc:** Hogan, James <hogan.james@epa.gov>; Harmon, Kenneth <Harmon.Kenneth@epa.gov>; Wilson, Dane <Wilson.Dane@epa.gov>; Holmes, Carol <Holmes.Carol@epa.gov>  
**Subject:** RE: COVID-19 Implications for EPA's Enforcement and Compliance Assurance Program

Good morning Carol,  
Yes everything is good on my end I hope you & your family are staying safe as well.

I will be on the call at noon.  
I will see if my section/branch chief will be able to join the call as well to receive clarification.

Thank you very much I sincerely appreciate it.

Thanks,

Pamela Y. Riley, MPH  
[Riley.pamela@epa.gov](mailto:Riley.pamela@epa.gov)  
(404) 562-9419 Office  
(404) 562-9439 Fax

---

**From:** King, Carol <[King.Carol@epa.gov](mailto:King.Carol@epa.gov)>  
**Sent:** Tuesday, April 21, 2020 2:20 AM  
**To:** Riley, Pamela <[Riley.Pamela@epa.gov](mailto:Riley.Pamela@epa.gov)>  
**Cc:** Hogan, James <[hogan.james@epa.gov](mailto:hogan.james@epa.gov)>; Harmon, Kenneth <[Harmon.Kenneth@epa.gov](mailto:Harmon.Kenneth@epa.gov)>; Wilson, Dane <[Wilson.Dane@epa.gov](mailto:Wilson.Dane@epa.gov)>; Holmes, Carol <[Holmes.Carol@epa.gov](mailto:Holmes.Carol@epa.gov)>  
**Subject:** RE: COVID-19 Implications for EPA's Enforcement and Compliance Assurance Program

Hi Pamela,

Good to hear from you! I hope you're staying safe and healthy. Yes, we can talk about the issues you note below and how they apply to aircraft public water systems. I'm copying my HQ colleagues. Are you joining our noon EST call on Tuesday? We could touch on these ADWR issues then or have a separate call?

Thanks,  
Carol

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**From:** Riley, Pamela <[Riley.Pamela@epa.gov](mailto:Riley.Pamela@epa.gov)>  
**Sent:** Monday, April 20, 2020 6:45 PM  
**To:** King, Carol <[King.Carol@epa.gov](mailto:King.Carol@epa.gov)>  
**Subject:** RE: COVID-19 Implications for EPA's Enforcement and Compliance Assurance Program

Hi Carol,  
I have a quick question: **Ex. 5 Deliberative Process (DP)**

# Ex. 5 Deliberative Process (DP)

Thanks,  
Pamela Y. Riley, MPH  
[Riley.pamela@epa.gov](mailto:Riley.pamela@epa.gov)  
(404) 562-9419 Office  
(404) 562-9439 Fax

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**From:** King, Carol <[King.Carol@epa.gov](mailto:King.Carol@epa.gov)>  
**Sent:** Thursday, March 26, 2020 2:33 PM  
**To:** Allenbach, Becky <[Allenbach.Bekky@epa.gov](mailto:Allenbach.Bekky@epa.gov)>; Bair, Rita <[bair.rita@epa.gov](mailto:bair.rita@epa.gov)>; Bergman, Ronald <[Bergman.Ronald@epa.gov](mailto:Bergman.Ronald@epa.gov)>; Biggs, Tonia <[Biggs.Tonia@epa.gov](mailto:Biggs.Tonia@epa.gov)>; Brignoni, Rosa <[Brignoni.Rosa@epa.gov](mailto:Brignoni.Rosa@epa.gov)>; Busterud, Gretchen <[Busterud.Gretchen@epa.gov](mailto:Busterud.Gretchen@epa.gov)>; Campbell, Rich <[Campbell.Rich@epa.gov](mailto:Campbell.Rich@epa.gov)>; Clark, Jacqueline <[clark.jacqueline@epa.gov](mailto:clark.jacqueline@epa.gov)>; Denton, Loren <[Denton.Loren@epa.gov](mailto:Denton.Loren@epa.gov)>; Donahue, Lisa <[Donahue.Lisa@epa.gov](mailto:Donahue.Lisa@epa.gov)>; Downing, Jane <[Downing.Jane@epa.gov](mailto:Downing.Jane@epa.gov)>; Driskell, Amanda <[Driskell.Amanda@epa.gov](mailto:Driskell.Amanda@epa.gov)>; Evans-Walker, Daria <[evans-walker.daria@epa.gov](mailto:evans-walker.daria@epa.gov)>; Glowacki, Joanna <[glowacki.joanna@epa.gov](mailto:glowacki.joanna@epa.gov)>; Harmon, Kenneth <[Harmon.Kenneth@epa.gov](mailto:Harmon.Kenneth@epa.gov)>; Hecht, Hillary <[Hecht.Hillary@epa.gov](mailto:Hecht.Hillary@epa.gov)>; Wittenberg, Olive <[Wittenberg.Olive@epa.gov](mailto:Wittenberg.Olive@epa.gov)>; Hollimon, Shelia <[Hollimon.Shelia@epa.gov](mailto:Hollimon.Shelia@epa.gov)>; Huffman, Diane <[Huffman.Diane@epa.gov](mailto:Huffman.Diane@epa.gov)>; Kahn, Lisa <[Kahn.Lisa@epa.gov](mailto:Kahn.Lisa@epa.gov)>; Keith, Elinor <[Keith.Elinor@epa.gov](mailto:Keith.Elinor@epa.gov)>; Kraft, Nicole <[Kraft.Nicole@epa.gov](mailto:Kraft.Nicole@epa.gov)>; Lagunas, Frank <[lagunas.frank@epa.gov](mailto:lagunas.frank@epa.gov)>; Lee, Bessie <[Lee.Bessie@epa.gov](mailto:Lee.Bessie@epa.gov)>; Lester, Miriam <[Lester.Miriam@epa.gov](mailto:Lester.Miriam@epa.gov)>; Li, Corine <[Li.Corine@epa.gov](mailto:Li.Corine@epa.gov)>; Livingston, Peggy <[Livingston.Peggy@epa.gov](mailto:Livingston.Peggy@epa.gov)>; Marquess, Scott <[Marquess.Scott@epa.gov](mailto:Marquess.Scott@epa.gov)>; Mathews, Namon <[Mathews.Namon@epa.gov](mailto:Mathews.Namon@epa.gov)>;



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**Cc:** Muller, Marie <MULLER.MARIE@EPA.GOV>; Magnuson, Janet <Magnuson.Janet@epa.gov>; Sallach, Andrew <Sallach.Andrew@epa.gov>; Rapicavoli, Emmanuelle <Rapicavoli.Emmanuelle@epa.gov>; Tsai, Yun-Jui <Tsai.Yun-Jui@epa.gov>; Jenzen, Jacob <Jenzen.Jacob@epa.gov>; Muehlberger, Christopher <muehlberger.christopher@epa.gov>; Tipton, Lantz <tipton.lantz@epa.gov>; Harris, Bryant <harris.bryant@epa.gov>; Tarquinio, Ellen <Tarquinio.Ellen@epa.gov>; Viveiros, Edward <Viveiros.Edward@epa.gov>; Ireland, Laurie <Ireland.Laurie@epa.gov>; BERMAN, TESSA <Berman.Tessa@epa.gov>; Hogan, James <hogan.james@epa.gov>; Bradbury, Sarah <bradbury.sarah@epa.gov>; Pratt, David <Pratt.David@epa.gov>; Anderson, Arlene <Anderson.Arlene@epa.gov>; Elliott, Richard <Elliott.Richard@epa.gov>; Crumlish, Karen <Crumlish.Karen@epa.gov>; VanTil, Barbara <vantil.barbara@epa.gov>; Albert, Ryan <Albert.Ryan@epa.gov>; Morrison, Kendra <Morrison.Kendra@epa.gov>; Ghosh, Mita <Ghosh.Mita@epa.gov>; Elder-Schweers, Pam <Elder-Schweers.Pam@epa.gov>; Engelman, Alexa <ENGELMAN.ALEXA@EPA.GOV>; Duvil, Ricardi <duvil.ricardi@epa.gov>; Latino, Steven <latino.steven@epa.gov>; Murphy, Elizabeth <Murphy.Elizabeth@epa.gov>; Moody, Jonathan <moody.jonathan@epa.gov>; Peachey, Robert <peachey.robert@epa.gov>; Kenknight, Jeff <Kenknight.Jeff@epa.gov>; Dinsmore, Andrew <Dinsmore.Andrew@epa.gov>; Breedlove, Dan <Breedlove.Dan@epa.gov>; Young, Craig <Young.Craig@epa.gov>; Walsh, Elizabeth <Walsh.Elizabeth@epa.gov>; Girouard, Taylor <Girouard.Taylor@epa.gov>; Klinger, Adam <Klinger.Adam@epa.gov>; Riley, Pamela <Riley.Pamela@epa.gov>; Smith, Kira <Smith.Kira@epa.gov>; Quinones, Rebecca <quinones.rebecca@epa.gov>; Bahr, Ryan <bahr.ryan@epa.gov>; D'Alfonso, Brian <dalfonso.brian@epa.gov>; Paradise, Laura <Paradise.Laura@epa.gov>; Robinson, Tierra <Robinson.Tierra@epa.gov>; Dean, Jill <Dean.Jill@epa.gov>; Spalt, Nicholas <Spalt.Nicholas@epa.gov>; Maraldo, Dean <Maraldo.Dean@epa.gov>; Rountree, Jillian

<Rountree.Jillian@epa.gov>; Mikalian, Charles <mikalian.charles@epa.gov>; Bauer, Candice <bauer.candice@epa.gov>; Baranowski, Curt <Baranowski.Curt@epa.gov>; Dokken, Victoria <Dokken.Victoria@epa.gov>; Garcia, Vanessa <Garcia.Vanessa@epa.gov>; Edwards, Alyssa <edwards.alyssa@epa.gov>; Randall, Sarah <Randall.Sarah@epa.gov>  
**Subject:** COVID-19 Implications for EPA’s Enforcement and Compliance Assurance Program  
**Importance:** High

<< File: Memorandum on COVID-19 Implications for EPAs Enforcement and Compliance Assurance Program (March 26, 2020).pdf >>

Attached is the policy OECA’s AA issued earlier today (3/26). It will be on EPA’s website and there will also be a press statement.

Thanks,  
Carol

Carol DeMarco King, Attorney-Advisor  
Municipal Enforcement Branch  
Water Enforcement Division  
Office of Enforcement and Compliance Assurance  
U.S. EPA  
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**To:** Issacharoff, Lucas (USANYS) [Ex. 6 PP / Ex. 7(C)] Simons, Andrew[Simons.Andrew@epa.gov]; Doud, Rachael (USANYS) [Ex. 6 PP / Ex. 7(C)] robert.yalen [Ex. 6 PP / Ex. 7(C)] Talty, Mark[Talty.Mark@epa.gov]  
**Cc:** Prabhu, Aditi[Prabhu.Aditi@epa.gov]; Purdy, Angeline (ENRD) [Ex. 6 PP / Ex. 7(C)]  
**From:** Holmes, Carol[/O=EXCHANGELABS/OU=EXCHANGE ADMINISTRATIVE GROUP (FYDIBOHF23SPDLT)/CN=RECIPIENTS/CN=A63F745584114AE9B119547A4DC845FD-HOLMES, CAROL]  
**Sent:** Fri 5/29/2020 5:13:41 PM (UTC)  
**Subject:** Starfield declaration  
Signed Starfield Declaration (OECA) NRDC v Bodine v5.4.pdf

Here is the signed Starfield declaration – Larry printed and signed the last page and asked me to merge it with the rest of the document. As such, the scanned last page is different from the rest of the document. Please let me know ASAP if this isn't acceptable.

Thanks, Carol

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---

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U.S. Environmental Protection Agency  
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Phone (202) 564-8709

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**From:** Issacharoff, Lucas (USANYS) [Ex. 6 PP / Ex. 7(C)]  
**Sent:** Friday, May 29, 2020 11:18 AM  
**To:** Simons, Andrew <Simons.Andrew@epa.gov>; Doud, Rachael (USANYS) [Ex. 6 PP / Ex. 7(C)] Holmes, Carol <Holmes.Carol@epa.gov>; robert.yalen [Ex. 6 PP / Ex. 7(C)] Talty, Mark <Talty.Mark@epa.gov>  
**Cc:** Prabhu, Aditi <Prabhu.Aditi@epa.gov>; Purdy, Angeline (ENRD) [Ex. 6 PP / Ex. 7(C)]  
**Subject:** RE: NRDC v. Bodine - statutory deadlines for recordkeeping regs

**Ex. 5 AC/AWP/DP**

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**From:** Simons, Andrew <Simons.Andrew@epa.gov>  
**Sent:** Friday, May 29, 2020 11:16 AM  
**To:** Doud, Rachael (USANYS) [Ex. 6 PP / Ex. 7(C)] }; Holmes, Carol <Holmes.Carol@epa.gov>; Issacharoff, Lucas (USANYS) [Ex. 6 PP / Ex. 7(C)] Yalen, Robert (USANYS) [Ex. 6 PP / Ex. 7(C)] }; Talty, Mark <Talty.Mark@epa.gov>  
**Cc:** Prabhu, Aditi <Prabhu.Aditi@epa.gov>; Purdy, Angeline (ENRD) [Ex. 6 PP / Ex. 7(C)]  
**Subject:** RE: NRDC v. Bodine - statutory deadlines for recordkeeping regs

**Ex. 5 AC/AWP/DP**

# Ex. 5 AC/AWP/DP

Andrew Simons  
Acting Associate General Counsel  
Cross-Cutting Issues Law Office  
U.S. Environmental Protection Agency  
Tel. 202-564-3649  
WJC-N 7526E

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**From:** Simons, Andrew  
**Sent:** Friday, May 29, 2020 10:27 AM  
**To:** 'Doud, Rachael (USANYS)' **Ex. 6 PP / Ex. 7(C)**; Holmes, Carol <Holmes.Carol@epa.gov>; 'Issacharoff, Lucas (USANYS)' **Ex. 6 PP / Ex. 7(C)**; robert.yalen **Ex. 6 PP / Ex. 7(C)**; Talty, Mark <Talty.Mark@epa.gov>  
**Cc:** Prabhu, Aditi <Prabhu.Aditi@epa.gov>; 'Purdy, Angeline (ENRD)' **Ex. 6 PP / Ex. 7(C)**  
**Subject:** RE: NRDC v. Bodine - Complete Draft

# Ex. 5 AC/AWP/DP

# Ex. 5 AC/AWP/DP

Andrew Simons  
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Tel. 202-564-3649  
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**From:** Simons, Andrew  
**Sent:** Friday, May 29, 2020 9:53 AM  
**To:** Doud, Rachael (USANYS) **Ex. 6 PP / Ex. 7(C)**; Holmes, Carol <Holmes.Carol@epa.gov>; Issacharoff, Lucas (USANYS) **Ex. 6 PP / Ex. 7(C)**; robert.yalen **Ex. 6 PP / Ex. 7(C)**; Talty, Mark <Talty.Mark@epa.gov>  
**Cc:** Prabhu, Aditi <Prabhu.Aditi@epa.gov>; Purdy, Angeline (ENRD) **Ex. 6 PP / Ex. 7(C)**  
**Subject:** RE: NRDC v. Bodine - Complete Draft

# Ex. 5 AC/AWP/DP

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FOIAs\_Production006

**From:** Simons, Andrew

**Sent:** Friday, May 29, 2020 9:51 AM

**To:** Doud, Rachael (USANYS) [Ex. 6 PP / Ex. 7(C)]; Holmes, Carol <Holmes.Carol@epa.gov>; Issacharoff, Lucas (USANYS)

[Ex. 6 PP / Ex. 7(C)]; robert.yalen [Ex. 6 PP / Ex. 7(C)]; Talty, Mark <Talty.Mark@epa.gov>

**Cc:** Prabhu, Aditi <Prabhu.Aditi@epa.gov>; Purdy, Angeline (ENRD) [Ex. 6 PP / Ex. 7(C)]

**Subject:** RE: NRDC v. Bodine - Complete Draft

# Ex. 5 AC/AWP/DP

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**From:** Doud, Rachael (USANYS) [Ex. 6 PP / Ex. 7(C)]

**Sent:** Thursday, May 28, 2020 10:38 PM

**To:** Holmes, Carol <Holmes.Carol@epa.gov>; Issacharoff, Lucas (USANYS) [Ex. 6 PP / Ex. 7(C)]; robert.yalen@USDOJ.GOV; Simons, Andrew <Simons.Andrew@epa.gov>; Talty, Mark <Talty.Mark@epa.gov>

**Cc:** Prabhu, Aditi <Prabhu.Aditi@epa.gov>; Purdy, Angeline (ENRD) [Ex. 6 PP / Ex. 7(C)]

**Subject:** RE: NRDC v. Bodine - Complete Draft

All,

Here's a revised draft reflecting today's comments. Hopefully this is pretty much final but there are a few small questions for EPA in comment bubbles. We'd appreciate if you could send any additional comments as soon as possible tomorrow, but no later than noon, so we can get everything finalized.

Thanks!

Rachael

**From:** Holmes, Carol <Holmes.Carol@epa.gov>

**Sent:** Thursday, May 28, 2020 1:31 PM

ED\_004611G\_00016435-00004

OECA COVID-19 2020  
FOIAs\_Production006

**To:** Issacharoff, Lucas (USANYS) [Ex. 6 PP / Ex. 7(C)] Valen, Robert (USANYS) [Ex. 6 PP / Ex. 7(C)] Simons, Andrew <Simons.Andrew@epa.gov>; Doud, Rachael (USANYS) [Ex. 6 PP / Ex. 7(C)] Talty, Mark <Talty.Mark@epa.gov>  
**Cc:** Prabhu, Aditi <Prabhu.Aditi@epa.gov>; Purdy, Angeline (ENRD) [Ex. 6 PP / Ex. 7(C)]  
**Subject:** RE: NRDC v. Bodine - Complete Draft

Hello – attached are EPA’s consolidated comments on the brief. A couple additional items:

# Ex. 5 AC/AWP/DP

I’ll respond to Rob’s email about the declaration next. Thanks!

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---

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**From:** Issacharoff, Lucas (USANYS) [Ex. 6 PP / Ex. 7(C)]  
**Sent:** Thursday, May 28, 2020 1:04 PM  
**To:** Holmes, Carol <Holmes.Carol@epa.gov>; robert.yalen [Ex. 6 PP / Ex. 7(C)] Simons, Andrew <Simons.Andrew@epa.gov>; Doud, Rachael (USANYS) [Ex. 6 PP / Ex. 7(C)]; Talty, Mark <Talty.Mark@epa.gov>

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**Cc:** Prabhu, Aditi <Prabhu.Aditi@epa.gov>; Purdy, Angeline (ENRD)

**Ex. 6 PP / Ex. 7(C)**

**Subject:** RE: NRDC v. Bodine - Complete Draft

I think if we can get Susan's by 3 or so we'd rather have them all together – we'll circulate a final-ish draft this afternoon/evening for one more round of (minimalist) review from the immediate group before filing.

---

**From:** Holmes, Carol <Holmes.Carol@epa.gov>

**Sent:** Thursday, May 28, 2020 12:54 PM

**To:** Yalen, Robert (USANYS) **Ex. 6 PP / Ex. 7(C)** Simons, Andrew <Simons.Andrew@epa.gov>; Doud, Rachael (USANYS)

**Ex. 6 PP / Ex. 7(C)** Talty, Mark <Talty.Mark@epa.gov>; Issacharoff, Lucas (USANYS) **Ex. 6 PP / Ex. 7(C)**

**Cc:** Prabhu, Aditi <Prabhu.Aditi@epa.gov>; Purdy, Angeline (ENRD) **Ex. 6 PP / Ex. 7(C)**

**Subject:** RE: NRDC v. Bodine - Complete Draft

July 6<sup>th</sup>, a Monday!

More seriously, I'm waiting to hear back from Susan Bodine on the brief, and then can send you consolidated edits. At what time would you just as soon get all but Susan's edits, then get Susan's separately? There aren't a lot....

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---

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**From:** Yalen, Robert (USANYS) **Ex. 6 PP / Ex. 7(C)**

**Sent:** Thursday, May 28, 2020 11:24 AM

**To:** Holmes, Carol <Holmes.Carol@epa.gov>; Simons, Andrew <Simons.Andrew@epa.gov>; Doud, Rachael (USANYS)

**Ex. 6 PP / Ex. 7(C)** Talty, Mark <Talty.Mark@epa.gov>; Issacharoff, Lucas (USANYS) **Ex. 6 PP / Ex. 7(C)**

**Cc:** Prabhu, Aditi <Prabhu.Aditi@epa.gov>; Purdy, Angeline (ENRD) **Ex. 6 PP / Ex. 7(C)**

**Subject:** RE: NRDC v. Bodine - Complete Draft

July 5<sup>th</sup>?

---

**From:** Holmes, Carol <Holmes.Carol@epa.gov>

**Sent:** Thursday, May 28, 2020 11:05 AM

**To:** Simons, Andrew <Simons.Andrew@epa.gov>; Yalen, Robert (USANYS) **Ex. 6 PP / Ex. 7(C)** Doud, Rachael (USANYS)

**Ex. 6 PP / Ex. 7(C)**; Talty, Mark <Talty.Mark@epa.gov>; Issacharoff, Lucas (USANYS) **Ex. 6 PP / Ex. 7(C)**

**Cc:** Prabhu, Aditi <Prabhu.Aditi@epa.gov>; Purdy, Angeline (ENRD) **Ex. 6 PP / Ex. 7(C)**

**Subject:** RE: NRDC v. Bodine - Complete Draft

Let's try to avoid having our papers due the week after the next holiday weekend. \*

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---

Carol S. Holmes

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**From:** Simons, Andrew <Simons.Andrew@epa.gov>  
**Sent:** Thursday, May 28, 2020 11:03 AM  
**To:** robert.yalen <Ex. 6 PP / Ex. 7(C)>; Holmes, Carol <Holmes.Carol@epa.gov>; Doud, Rachael (USANYS) <Ex. 6 PP / Ex. 7(C)>  
Talty, Mark <Talty.Mark@epa.gov>; Issacharoff, Lucas (USANYS) <Ex. 6 PP / Ex. 7(C)>  
**Cc:** Prabhu, Aditi <Prabhu.Aditi@epa.gov>; Purdy, Angeline (ENRD) <Ex. 6 PP / Ex. 7(C)>  
**Subject:** RE: NRDC v. Bodine - Complete Draft

We will almost certainly want to ask for more time. I would think we would want a minimum of 30 days.

Andrew Simons  
Acting Associate General Counsel  
Cross-Cutting Issues Law Office  
U.S. Environmental Protection Agency  
Tel. 202-564-3649  
WJC-N 7526E

*CONFIDENTIALITY NOTICE: This message may contain deliberative, attorney-client, or otherwise privileged material. Do not release this message under FOIA without appropriate review. If you are not the intended recipient, or the employee or agent responsible to deliver it to the intended recipient, please contact the sender and delete all copies.*



Please consider the environment before printing this email.

**From:** Yalen, Robert (USANYS) <Robert.Yalen@usdoj.gov>  
**Sent:** Thursday, May 28, 2020 10:43 AM  
**To:** Holmes, Carol <Holmes.Carol@epa.gov>; Doud, Rachael (USANYS) <Rachael.Doud@usdoj.gov>; Talty, Mark <Talty.Mark@epa.gov>; Issacharoff, Lucas (USANYS) <Lucas.Issacharoff@usdoj.gov>  
**Cc:** Simons, Andrew <Simons.Andrew@epa.gov>; Prabhu, Aditi <Prabhu.Aditi@epa.gov>; Purdy, Angeline (ENRD) <Angeline.Purdy@usdoj.gov>  
**Subject:** RE: NRDC v. Bodine - Complete Draft

All, FYI, Judge McMahon accepted the NY v. EPA case as "related" this morning, so the case is now assigned to her.

# Ex. 5 AC/AWP/DP

**From:** Holmes, Carol <Holmes.Carol@epa.gov>  
**Sent:** Thursday, May 28, 2020 10:32 AM  
**To:** Doud, Rachael (USANYS) <Ex. 6 PP / Ex. 7(C)>; Talty, Mark <Talty.Mark@epa.gov>; Issacharoff, Lucas (USANYS) <Ex. 6 PP / Ex. 7(C)>; Yalen, Robert (USANYS) <Ex. 6 PP / Ex. 7(C)>  
**Cc:** Simons, Andrew <Simons.Andrew@epa.gov>; Prabhu, Aditi <Prabhu.Aditi@epa.gov>; Purdy, Angeline (ENRD) <Ex. 6 PP / Ex. 7(C)>  
**Subject:** RE: NRDC v. Bodine - Complete Draft

Thanks Rachel – attached is what I hope is the final draft of the OECA declaration. In addition to checking

formatting, etc., please see the comment balloon conversation between me and Larry!

Ex. 5 AC/AWP/DP

Ex. 5 AC/AWP/DP

Ex. 5 AC/AWP/DP Thanks!

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---

Carol S. Holmes  
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Crosscutting Policy Staff  
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U.S. Environmental Protection Agency  
1200 Pennsylvania Ave, NW  
Washington, DC 20460  
Phone (202) 564-8709

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**From:** Doud, Rachael (USANYS) Ex. 6 PP / Ex. 7(C)

**Sent:** Thursday, May 28, 2020 10:20 AM

**To:** Holmes, Carol <Holmes.Carol@epa.gov>; Talty, Mark <Talty.Mark@epa.gov>; Issacharoff, Lucas (USANYS)

Ex. 6 PP / Ex. 7(C); robert.yaler Ex. 6 PP / Ex. 7(C)

**Cc:** Simons, Andrew <Simons.Andrew@epa.gov>; Prabhu, Aditi <Prabhu.Aditi@epa.gov>; Purdy, Angeline (ENRD)

Ex. 6 PP / Ex. 7(C)

**Subject:** RE: NRDC v. Bodine - Complete Draft

Thanks, Carol. I do think we should use page numbers, and the declarations should have the case caption on them. Can you send us a draft before finalized so we can review any make any adjustments?

It sounds like others at our Office have been using e-signatures for declarations so I think that would be fine if it's not feasible to get an ink signature.

---

**From:** Holmes, Carol <Holmes.Carol@epa.gov>

**Sent:** Thursday, May 28, 2020 8:19 AM

**To:** Doud, Rachael (USANYS) Ex. 6 PP / Ex. 7(C); Talty, Mark <Talty.Mark@epa.gov>; Issacharoff, Lucas (USANYS)

Ex. 6 PP / Ex. 7(C); Yalen, Robert (USANYS) Ex. 6 PP / Ex. 7(C)

**Cc:** Simons, Andrew <Simons.Andrew@epa.gov>; Prabhu, Aditi <Prabhu.Aditi@epa.gov>; Purdy, Angeline (ENRD)

Ex. 6 PP / Ex. 7(C)

**Subject:** RE: NRDC v. Bodine - Complete Draft

Good Morning Everyone!

I'm working on finalizing the OECA declaration, and wanted to check regarding any final formatting requirements (e.g., page number or not, margins, font), and also check to see what you've learned about e-signatures.

Thanks! Carol

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---

Carol S. Holmes  
Senior Counsel  
Crosscutting Policy Staff  
Office of Civil Enforcement (MC 2241A)

ED\_004611G\_00016435-00008

OECA COVID-19 2020  
FOIAs\_Production006

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**From:** Doud, Rachael (USANYS) <[Ex. 6 PP / Ex. 7(C)]>  
**Sent:** Wednesday, May 27, 2020 2:56 PM  
**To:** Talty, Mark <Talty.Mark@epa.gov>; Issacharoff, Lucas (USANYS) <[Ex. 6 PP / Ex. 7(C)]>; robert.yalen <[Ex. 6 PP / Ex. 7(C)]>  
**Cc:** Simons, Andrew <Simons.Andrew@epa.gov>; Prabhu, Aditi <Prabhu.Aditi@epa.gov>; Holmes, Carol <Holmes.Carol@epa.gov>; Purdy, Angeline (ENRD) <[Ex. 6 PP / Ex. 7(C)]>  
**Subject:** RE: NRDC v. Bodine - Complete Draft

All,

Here's an updated draft incorporating the edits from earlier. [Ex. 5 AC/AWP/DP]

**Ex. 5 AC/AWP/DP**

Thanks,

Rachael

---

**From:** Talty, Mark <Talty.Mark@epa.gov>  
**Sent:** Wednesday, May 27, 2020 6:34 AM  
**To:** Issacharoff, Lucas (USANYS) <[Ex. 6 PP / Ex. 7(C)]>; Yalen, Robert (USANYS) <[Ex. 6 PP / Ex. 7(C)]>  
**Cc:** Simons, Andrew <Simons.Andrew@epa.gov>; Prabhu, Aditi <Prabhu.Aditi@epa.gov>; Doud, Rachael (USANYS) <[Ex. 6 PP / Ex. 7(C)]>; Holmes, Carol <Holmes.Carol@epa.gov>; Purdy, Angeline (ENRD) <[Ex. 6 PP / Ex. 7(C)]>  
**Subject:** RE: NRDC v. Bodine - Complete Draft

Lucas & Rachel,

Attached please find EPA's comments on the latest version. [Ex. 5 AC/AWP/DP]

**Ex. 5 AC/AWP/DP**

Thanks for all of your hard work – it is reflected in the brief.

Best regards,

Mark

Mark C. Talty  
Cross-Cutting Issues Law Office  
Office of General Counsel  
U.S. Environmental Protection Agency  
(202) 564-1262  
talty.mark@epa.gov

---

**From:** Issacharoff, Lucas (USANYS) <[Ex. 6 PP / Ex. 7(C)]>  
**Sent:** Tuesday, May 26, 2020 9:46 AM  
**To:** Holmes, Carol <Holmes.Carol@epa.gov>; Talty, Mark <Talty.Mark@epa.gov>; robert.yalen <[Ex. 6 PP / Ex. 7(C)]>  
**Cc:** Simons, Andrew <Simons.Andrew@epa.gov>; Prabhu, Aditi <Prabhu.Aditi@epa.gov>; Doud, Rachael (USANYS) <[Ex. 6 PP / Ex. 7(C)]>; Angeline (ENRD) <[Ex. 6 PP / Ex. 7(C)]>  
**Subject:** NRDC v. Bodine - Complete Draft

All,

ED\_004611G\_00016435-00009

OECA COVID-19 2020  
FOIAs\_Production006

Please see attached a complete draft of the NRDC v. Bodine brief. A few point we wanted to raise:

# Ex. 5 AC/AWP/DP

Best,  
Lucas

**From:** Holmes, Carol <Holmes.Carol@epa.gov>

**Sent:** Tuesday, May 26, 2020 7:42 AM

**To:** Talty, Mark <Talty.Mark@epa.gov>; Issacharoff, Lucas (USANYS) **Ex. 6 PP / Ex. 7(C)**; Yalen, Robert (USANYS)

**Ex. 6 PP / Ex. 7(C)**

**Cc:** Simons, Andrew <Simons.Andrew@epa.gov>; Prabhu, Aditi <Prabhu.Aditi@epa.gov>; Doud, Rachael (USANYS)

**Ex. 6 PP / Ex. 7(C)**; Purdy, Angeline (ENRD)

**Ex. 6 PP / Ex. 7(C)**

**Subject:** RE: NRDC v. Bodine - Argument Section

FYI – article in Inside EPA today about a paper on the Temporary Enforcement Policy by group at the NYU School of Law (attached).

## IPI finds EPA COVID enforcement policy troubling but not sweeping

May 22, 2020

The Institute for Policy Integrity (IPI) at New York University in a new analysis finds EPA's controversial enforcement policy during the COVID-19 pandemic is potentially troubling for public health and the environment but that it "has important limitations in both scope and subject matter and maintains some level of EPA enforcement."

The May 21 report warns of harms especially to environmental justice (EJ) communities and from certain types of pollution releases but it strikes a more balanced tone compared to former EPA officials and others who claim the March 26 policy effectively halted enforcement.

For example, Obama EPA chief Gina McCarthy called it "an open license to pollute," while former Obama enforcement chief Cynthia Giles said it was "essentially a nationwide waiver of environmental rules for the indefinite future."

Environmental groups filed suit last month in federal district court after EPA failed to respond to their petition urging the agency to require public disclosure when companies use the policy. Additionally, a group of Democratic-led states filed a lawsuit in the same court this month challenging the policy as unlawful on its face.

EPA and many industry attorneys largely defend the policy as responsible and limited in the midst of an unprecedented pandemic.

IPI argues that one of the "most alarming aspects" of the policy is its relaxation of routine monitoring and reporting, noting that tens of thousands of facilities are subject to self-monitoring and disclosure requirements. If an entity "acts in bad faith" and pollutes more than it is allowed, no one will know the extent of those emissions. Even when an entity acts in good faith, "it will be unknown whether, or to what extent" the plant surpassed its pollution limits.

The group adds the enforcement discretion has concerning implications for EJ communities, which face greater risks from COVID-19 and pollution. One type of reporting that could be eased is fence-line monitoring, which helps track air quality near high-polluting facilities often located in these communities.

There are also potential concerning consequences for hazardous waste generation sites and animal feeding operations, which could discharge toxic materials into waterways. "If a hazardous waste generation facility cannot transfer hazardous waste offsite due to COVID-19, it will not be considered a treatment, storage and disposal facility under the policy. The effects are potentially far-reaching and problematic," the report says. However, IPI's report also includes a section titled, "What the policy does not do." There, the group notes that it is "not a free pass or get out of jail free card" for polluters. EPA maintains discretion to decide whether noncompliance is a result of the coronavirus, or not. It also does not allow entities to indefinitely halt all reporting obligations, and stresses that EPA expects facilities to operate in a safe and protective manner.

The policy "does not excuse exceedances of pollution limitations, and EPA will only consider the impacts of COVID-19 in cases where entities have notified EPA . . . to allow the agency to mitigate the risks or threats." However, it warns those limitations "may be meaningless" without reporting.

Finally, the policy is limited in that does not apply to criminal violations, or activities conducted under Superfund law or the Federal Insecticide, Fungicide and Rodenticide Act.

"In short, the level of harm caused by the policy will depend partially on how EPA chooses to implement it, with more lax oversight likely to increase environmental and public health risks," the report concludes.

Blurb: The Institute for Policy Integrity finds that EPA's controversial enforcement "discretion" policy during the coronavirus is potentially troubling but also has important limits.

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---

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Senior Counsel  
Crosscutting Policy Staff  
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**From:** Talty, Mark <Talty.Mark@epa.gov>

**Sent:** Friday, May 22, 2020 6:00 PM

**To:** Issacharoff, Lucas (USANYS) <[REDACTED] Ex. 6 PP / Ex. 7(C)>; robert.yalen <[REDACTED] Ex. 6 PP / Ex. 7(C)>

**Cc:** Simons, Andrew <Simons.Andrew@epa.gov>; Prabhu, Aditi <Prabhu.Aditi@epa.gov>; Holmes, Carol <Holmes.Carol@epa.gov>;

Doud, Rachael (USANYS) <[REDACTED] Ex. 6 PP / Ex. 7(C)>; Purdy, Angeline (ENRD) <[REDACTED] Ex. 6 PP / Ex. 7(C)>

**Subject:** RE: NRDC v. Bodine - Argument Section

Lucas & Rachel,

Attached please find EPA's consolidated comments on the draft argument section. The EPA team thought that you all did a really good job with this first draft. We appreciate all of your hard work on this matter.

Please let us know if you have questions as you work through the comments. I'm sure we'll need to touch base on Tuesday to see where we stand.

I hope everyone enjoys as much of the holiday weekend as is possible under the current circumstances.

Best regards,

Mark

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(202) 564-1262  
[talty.mark@epa.gov](mailto:talty.mark@epa.gov)

---

**From:** Issacharoff, Lucas (USANYS) <[REDACTED] Ex. 6 PP / Ex. 7(C)>

**Sent:** Thursday, May 21, 2020 6:54 PM

**To:** Holmes, Carol <Holmes.Carol@epa.gov>; Talty, Mark <Talty.Mark@epa.gov>; Doud, Rachael (USANYS)

<[REDACTED] Ex. 6 PP / Ex. 7(C)>; robert.yalen <[REDACTED] Ex. 6 PP / Ex. 7(C)>; Purdy, Angeline (ENRD) <[REDACTED] Ex. 6 PP / Ex. 7(C)>

**Cc:** Simons, Andrew <Simons.Andrew@epa.gov>; Prabhu, Aditi <Prabhu.Aditi@epa.gov>

**Subject:** NRDC v. Bodine - Argument Section

All,

Thank you all for your patience. Please see attached a draft argument section. It clocks in at a hefty 27+ pages, so even with our extension to 40 total pages suggestions on where to trim back would be helpful.

Best,  
Lucas

---

**From:** Holmes, Carol <Holmes.Carol@epa.gov>

**Sent:** Thursday, May 21, 2020 4:17 PM

**To:** Talty, Mark <Talty.Mark@epa.gov>; Issacharoff, Lucas (USANYS) [Ex. 6 PP / Ex. 7(C)]; Doud, Rachael (USANYS)

[Ex. 6 PP / Ex. 7(C)] Yalen, Robert (USANYS) [Ex. 6 PP / Ex. 7(C)] Purdy, Angeline (ENRD) [Ex. 6 PP / Ex. 7(C)]

**Cc:** Simons, Andrew <Simons.Andrew@epa.gov>; Prabhu, Aditi <Prabhu.Aditi@epa.gov>

**Subject:** RE: Revised 56.1 Statement

# Ex. 5 AC/AWP/DP

**Ex. 5 AC/AWP/DP**

Thanks!

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---

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Washington, DC 20460  
Phone (202) 564-8709

---

**From:** Talty, Mark <Talty.Mark@epa.gov>

**Sent:** Thursday, May 21, 2020 4:10 PM

**To:** Issacharoff, Lucas (USANYS) [Ex. 6 PP / Ex. 7(C)]; Doud, Rachael (USANYS) [Ex. 6 PP / Ex. 7(C)]

[Ex. 6 PP / Ex. 7(C)] Purdy, Angeline (ENRD) [Ex. 6 PP / Ex. 7(C)]

**Cc:** Holmes, Carol <Holmes.Carol@epa.gov>; Simons, Andrew <Simons.Andrew@epa.gov>; Prabhu, Aditi <Prabhu.Aditi@epa.gov>

**Subject:** Revised 56.1 Statement

All,

Attached is the slightly revised version of our response to the Plaintiffs' 56.1 statement. Hopefully, this give you all enough to refine some of the more difficult responses consistent with yesterday's discussion.

Best regards,

Mark

Mark C. Talty  
Cross-Cutting Issues Law Office  
Office of General Counsel  
U.S. Environmental Protection Agency  
(202) 564-1262  
[talty.mark@epa.gov](mailto:talty.mark@epa.gov)



**To:** Issacharoff, Lucas (USANYS) [Ex. 6 PP / Ex. 7(C)]  
**From:** Holmes, Carol [O=EXCHANGELABS/OU=EXCHANGE ADMINISTRATIVE GROUP (FYDIBOHF23SPDLT)/CN=RECIPIENTS/CN=A63F745584114AE9B119547A4DC845FD-HOLMES, CAROL]  
**Sent:** Fri 5/29/2020 12:22:34 PM (UTC)  
**Subject:** RE: OECA Declaration -- SDNY final comments  
FINAL Starfield Declaration (OECA) NRDC v Bodine.pdf

Sorry, I stopped looking at email at 9:30 last night and just got Larry's signed declaration. If it is important, I can ask that he sign it with a revised para 3, but could you please send exactly the language you'd want? Is Anne going to resign hers also? Thanks.

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---

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Washington, DC 20460  
Phone (202) 564-8709

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**From:** Issacharoff, Lucas (USANYS) [Ex. 6 PP / Ex. 7(C)]  
**Sent:** Thursday, May 28, 2020 9:34 PM  
**To:** Holmes, Carol <Holmes.Carol@epa.gov>  
**Subject:** RE: OECA Declaration -- SDNY final comments

Sorry Carol – before Larry signs

**Ex. 5 AC/AWP/DP**

**Ex. 5 AC/AWP/DP**

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**From:** Holmes, Carol <Holmes.Carol@epa.gov>  
**Sent:** Thursday, May 28, 2020 6:08 PM  
**To:** Issacharoff, Lucas (USANYS) [Ex. 6 PP / Ex. 7(C)]; Yalen, Robert (USANYS) [Ex. 6 PP / Ex. 7(C)]  
**Cc:** Doud, Rachael (USANYS) [Ex. 6 PP / Ex. 7(C)]; Purdy, Angeline (ENRD) [Ex. 6 PP / Ex. 7(C)]; Talty, Mark <TalTy.Mark@epa.gov>; Simons, Andrew <Simons.Andrew@epa.gov>; Prabhu, Aditi <Prabhu.Aditi@epa.gov>  
**Subject:** RE: OECA Declaration -- SDNY final comments

Ah – yep, redline. Thank you! I'll send to Larry and should have something for you tomorrow morning.

And I hate to ask, but should we review the 56.1 statement again, before it is filed?

Thanks tons you guys!

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---

Carol S. Holmes  
Senior Counsel  
Crosscutting Policy Staff  
Office of Civil Enforcement (MC 2241A)  
U.S. Environmental Protection Agency  
ED\_004611G\_00016455-00001

OECA COVID-19 2020  
FOIAs\_Production006



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**From:** Issacharoff, Lucas (USANYS) [Ex. 6 PP / Ex. 7(C)]  
**Sent:** Thursday, May 28, 2020 6:05 PM  
**To:** Holmes, Carol <Holmes.Carol@epa.gov>; robert.yalen [Ex. 6 PP / Ex. 7(C)]  
**Cc:** Doud, Rachael (USANYS) [Ex. 6 PP / Ex. 7(C)]; Purdy, Angeline (ENRD) [Ex. 6 PP / Ex. 7(C)]; Talty, Mark <Talty.Mark@epa.gov>; Simons, Andrew <Simons.Andrew@epa.gov>; Prabhu, Aditi <Prabhu.Aditi@epa.gov>  
**Subject:** RE: OECA Declaration -- SDNY final comments

I think what I sent you has track changes from your 5.1! And yes, I think this kind of e-sig should be fine – courts are pretty flexible right now.

---

**From:** Holmes, Carol <Holmes.Carol@epa.gov>  
**Sent:** Thursday, May 28, 2020 6:03 PM  
**To:** Issacharoff, Lucas (USANYS) [Ex. 6 PP / Ex. 7(C)]; Yalen, Robert (USANYS) [Ex. 6 PP / Ex. 7(C)]  
**Cc:** Doud, Rachael (USANYS) [Ex. 6 PP / Ex. 7(C)]; Purdy, Angeline (ENRD) [Ex. 6 PP / Ex. 7(C)]; Talty, Mark <Talty.Mark@epa.gov>; Simons, Andrew <Simons.Andrew@epa.gov>; Prabhu, Aditi <Prabhu.Aditi@epa.gov>  
**Subject:** RE: OECA Declaration -- SDNY final comments

Thanks Lucas – [Ex. 5 AC/AWP/DP]

## Ex. 5 AC/AWP/DP

I am attaching a document showing the type of e-signature I was thinking Larry may use, which is different than what Anne did for the OAR declaration. Is this acceptable?

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---

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**From:** Issacharoff, Lucas (USANYS) [Ex. 6 PP / Ex. 7(C)]  
**Sent:** Thursday, May 28, 2020 5:57 PM  
**To:** Holmes, Carol <Holmes.Carol@epa.gov>; robert.yalen [Ex. 6 PP / Ex. 7(C)]  
**Cc:** Doud, Rachael (USANYS) [Ex. 6 PP / Ex. 7(C)]; Purdy, Angeline (ENRD) [Ex. 6 PP / Ex. 7(C)]; Talty, Mark <Talty.Mark@epa.gov>; Simons, Andrew <Simons.Andrew@epa.gov>; Prabhu, Aditi <Prabhu.Aditi@epa.gov>  
**Subject:** RE: OECA Declaration -- SDNY final comments

Okay, sorry for confusion! We like your 5.1, so I accepted those changes and made a couple of very minor edits – see attached 5.2. Let me know if any concerns, otherwise good to finalize and sign.

Thanks,  
Lucas

**From:** Holmes, Carol <Holmes.Carol@epa.gov>

**Sent:** Thursday, May 28, 2020 4:31 PM

**To:** Yalen, Robert (USANYS) [Ex. 6 PP / Ex. 7(C)]

**Cc:** Issacharoff, Lucas (USANYS) [Ex. 6 PP / Ex. 7(C)] Doud, Rachael (USANYS) [Ex. 6 PP / Ex. 7(C)]; Purdy, Angeline (ENRD) [Ex. 6 PP / Ex. 7(C)]; Talty, Mark <Talty.Mark@epa.gov>; Simons, Andrew <Simons.Andrew@epa.gov>; Prabhu, Aditi <Prabhu.Aditi@epa.gov>

**Subject:** RE: OECA Declaration -- SDNY final comments

Hi Rob – Sorry, I work faster than that! I already undid prior edits and added new ones per email below – which is v5 attached. I looked at OneDrive, and alas, the short-lived version with your suggested edits wasn't saved. But I tried to recreate it in v5.1.

**Ex. 5 AC/AWP/DP**

Thanks!

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---

Carol S. Holmes  
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Crosscutting Policy Staff  
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Washington, DC 20460  
Phone (202) 564-8709

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**From:** Yalen, Robert (USANYS) <Robert.Yalen@usdoj.gov>

**Sent:** Thursday, May 28, 2020 4:06 PM

**To:** Holmes, Carol <Holmes.Carol@epa.gov>

**Subject:** RE: OECA Declaration -- SDNY final comments

**Ex. 5 AC/AWP/DP**

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**From:** Holmes, Carol <Holmes.Carol@epa.gov>

**Sent:** Thursday, May 28, 2020 3:55 PM

**To:** Yalen, Robert (USANYS) [Ex. 6 PP / Ex. 7(C)]; Doud, Rachael (USANYS) [Ex. 6 PP / Ex. 7(C)] Talty, Mark <Talty.Mark@epa.gov>; Issacharoff, Lucas (USANYS) [Ex. 6 PP / Ex. 7(C)]

**Cc:** Simons, Andrew <Simons.Andrew@epa.gov>; Prabhu, Aditi <Prabhu.Aditi@epa.gov>; Purdy, Angeline (ENRD)

[Ex. 6 PP / Ex. 7(C)]

**Subject:** RE: OECA Declaration -- SDNY final comments

Killing me –just made edits in response to your original email while on a call. :-)

Thanks, I'll undo those edits and make the new ones below.

**Ex. 5 AC/AWP/DP**

**Ex. 5 AC/AWP/DP**

**Ex. 5 AC/AWP/DP**

Thanks!

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Carol S. Holmes  
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Washington, DC 20460  
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**From:** Yalen, Robert (USANYS) **Ex. 6 PP / Ex. 7(C)**  
**Sent:** Thursday, May 28, 2020 3:44 PM  
**To:** Holmes, Carol <Holmes.Carol@epa.gov>; Doud, Rachael (USANYS) **Ex. 6 PP / Ex. 7(C)**; Talty, Mark <Talty.Mark@epa.gov>; Issacharoff, Lucas (USANYS) **Ex. 6 PP / Ex. 7(C)**  
**Cc:** Simons, Andrew <Simons.Andrew@epa.gov>; Prabhu, Aditi <Prabhu.Aditi@epa.gov>; Purdy, Angeline (ENRD) **Ex. 6 PP / Ex. 7(C)**  
**Subject:** OECA Declaration -- SDNY final comments

So **Ex. 5 AC/AWP/DP**

**Ex. 5 AC/AWP/DP**

**From:** Holmes, Carol <Holmes.Carol@epa.gov>  
**Sent:** Thursday, May 28, 2020 1:50 PM  
**To:** Yalen, Robert (USANYS) **Ex. 6 PP / Ex. 7(C)**; Doud, Rachael (USANYS) **Ex. 6 PP / Ex. 7(C)**; Talty, Mark <Talty.Mark@epa.gov>; Issacharoff, Lucas (USANYS) **Ex. 6 PP / Ex. 7(C)**  
**Cc:** Simons, Andrew <Simons.Andrew@epa.gov>; Prabhu, Aditi <Prabhu.Aditi@epa.gov>; Purdy, Angeline (ENRD) **Ex. 6 PP / Ex. 7(C)**  
**Subject:** RE: NRDC v. Bodine - Complete Draft

Hi Rob – please see my responses below. Are separate comments coming on the declaration? We were hoping it was done except all but the signing.... This means we probably can't get it signed today b/c folks here will need to review the revised version and be comfortable with it.

# Ex. 5 AC/AWP/DP

Thanks!

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Washington, DC 20460  
Phone (202) 564-8709

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**From:** Yalen, Robert (USANYS) <[REDACTED] Ex. 6 PP / Ex. 7(C)>  
**Sent:** Thursday, May 28, 2020 1:14 PM  
**To:** Holmes, Carol <Holmes.Carol@epa.gov>; Doud, Rachael (USANYS) <[REDACTED] Ex. 6 PP / Ex. 7(C)>; Talty, Mark <Talty.Mark@epa.gov>; Issacharoff, Lucas (USANYS) <[REDACTED] Ex. 6 PP / Ex. 7(C)>  
**Cc:** Simons, Andrew <Simons.Andrew@epa.gov>; Prabhu, Aditi <Prabhu.Aditi@epa.gov>; Purdy, Angeline (ENRD) <[REDACTED] Ex. 6 PP / Ex. 7(C)>  
**Subject:** RE: NRDC v. Bodine - Complete Draft

# Ex. 5 AC/AWP/DP

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**From:** Holmes, Carol <Holmes.Carol@epa.gov>  
**Sent:** Thursday, May 28, 2020 10:32 AM  
**To:** Doud, Rachael (USANYS) Ex. 6 PP / Ex. 7(C); Talty, Mark <Talty.Mark@epa.gov>; Issacharoff, Lucas (USANYS) Ex. 6 PP / Ex. 7(C); Yalen, Robert (USANYS) Ex. 6 PP / Ex. 7(C)  
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<Ex. 6 PP / Ex. 7(C)>

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<Ex. 6 PP / Ex. 7(C)>; Purdy, Angeline (ENRD) <Ex. 6 PP / Ex. 7(C)>

**Subject:** RE: NRDC v. Bodine - Argument Section

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## IPI finds EPA COVID enforcement policy troubling but not sweeping

May 22, 2020

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The May 21 report warns of harms especially to environmental justice (EJ) communities and from certain types of pollution releases but it strikes a more balanced tone compared to former EPA officials and others who claim the March 26 policy effectively halted enforcement. For example, Obama EPA chief Gina McCarthy called it "an open license to pollute," while former Obama enforcement chief Cynthia Giles said it was "essentially a nationwide waiver of environmental rules for the indefinite future."

Environmental groups filed suit last month in federal district court after EPA failed to respond to their petition urging the agency to require public disclosure when companies use the policy. Additionally, a group of Democratic-led states filed a lawsuit in the same court this month challenging the policy as unlawful on its face.

EPA and many industry attorneys largely defend the policy as responsible and limited in the midst of an unprecedented pandemic.

IPI argues that one of the "most alarming aspects" of the policy is its relaxation of routine monitoring and reporting, noting that tens of thousands of facilities are subject to self-monitoring and disclosure requirements. If an entity "acts in bad faith" and pollutes more than it is allowed, no one will know the extent of those emissions. Even when an entity acts in good faith, "it will be unknown whether, or to what extent" the plant surpassed its pollution limits.

The group adds the enforcement discretion has concerning implications for EJ communities, which face greater risks from COVID-19 and pollution. One type of reporting that could be eased is fence-line monitoring, which helps track air quality near high-polluting facilities often located in these communities.

There are also potential concerning consequences for hazardous waste generation sites and animal feeding operations, which could discharge toxic materials into waterways. "If a hazardous waste generation facility cannot transfer hazardous waste offsite due to COVID-19, it will not be considered a treatment, storage and disposal facility under the policy. The effects are potentially far-reaching and problematic," the report says. However, IPI's report also includes a section titled, "What the policy does not do." There, the group notes that it is "not a free pass or get out of jail free card" for polluters. EPA maintains discretion to decide whether noncompliance is a result of the coronavirus, or not. It also does not allow entities to indefinitely halt all reporting obligations, and stresses that EPA expects facilities to operate in a safe and protective manner.

The policy "does not excuse exceedances of pollution limitations, and EPA will only consider the impacts of COVID-19 in cases where entities have notified EPA . . . to allow the agency to mitigate the risks or threats." However, it warns those limitations "may be meaningless" without reporting.

Finally, the policy is limited in that does not apply to criminal violations, or activities conducted under Superfund law or the Federal Insecticide, Fungicide and Rodenticide Act.

"In short, the level of harm caused by the policy will depend partially on how EPA chooses to implement it, with more lax oversight likely to



increase environmental and public health risks," the report concludes.  
Blurb: The Institute for Policy Integrity finds that EPA's controversial enforcement "discretion" policy during the coronavirus is potentially troubling but also has important limits.

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**Sent:** Friday, May 22, 2020 6:00 PM  
**To:** Issacharoff, Lucas (USANYS) [Ex. 6 PP / Ex. 7(C)]; robert.yalen [Ex. 6 PP / Ex. 7(C)]  
**Cc:** Simons, Andrew <Simons.Andrew@epa.gov>; Prabhu, Aditi <Prabhu.Aditi@epa.gov>; Holmes, Carol <Holmes.Carol@epa.gov>; Doud, Rachael (USANYS) [Ex. 6 PP / Ex. 7(C)]; Purdy, Angeline (ENRD) [Ex. 6 PP / Ex. 7(C)]  
**Subject:** RE: NRDC v. Bodine - Argument Section

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Best regards,

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**Sent:** Thursday, May 21, 2020 6:54 PM  
**To:** Holmes, Carol <Holmes.Carol@epa.gov>; Talty, Mark <Talty.Mark@epa.gov>; Doud, Rachael (USANYS) [Ex. 6 PP / Ex. 7(C)]; robert.yalen [Ex. 6 PP / Ex. 7(C)]; Purdy, Angeline (ENRD) [Ex. 6 PP / Ex. 7(C)]  
**Cc:** Simons, Andrew <Simons.Andrew@epa.gov>; Prabhu, Aditi <Prabhu.Aditi@epa.gov>  
**Subject:** NRDC v. Bodine - Argument Section

All,

Thank you all for your patience. Please see attached a draft argument section. It clocks in at a hefty 27+ pages, so even with our

extension to 40 total pages suggestions on where to trim back would be helpful.

Best,  
Lucas

---

**From:** Holmes, Carol <Holmes.Carol@epa.gov>

**Sent:** Thursday, May 21, 2020 4:17 PM

**To:** Talty, Mark <Talty.Mark@epa.gov>; Issacharoff, Lucas (USANYS) [Ex. 6 PP / Ex. 7(C)]; Doud, Rachael (USANYS) [Ex. 6 PP / Ex. 7(C)]; Yalen, Robert (USANYS) [Ex. 6 PP / Ex. 7(C)]; Purdy, Angeline (ENRD) [Ex. 6 PP / Ex. 7(C)]

**Cc:** Simons, Andrew <Simons.Andrew@epa.gov>; Prabhu, Aditi <Prabhu.Aditi@epa.gov>

**Subject:** RE: Revised 56.1 Statement

# Ex. 5 AC/AWP/DP

Ex. 5 AC/AWP/DP

Thanks!

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**Sent:** Thursday, May 21, 2020 4:10 PM

**To:** Issacharoff, Lucas (USANYS) [Ex. 6 PP / Ex. 7(C)]; Doud, Rachael (USANYS) [Ex. 6 PP / Ex. 7(C)]; robert.yalen [Ex. 6 PP / Ex. 7(C)]; Purdy, Angeline (ENRD) [Ex. 6 PP / Ex. 7(C)]

**Cc:** Holmes, Carol <Holmes.Carol@epa.gov>; Simons, Andrew <Simons.Andrew@epa.gov>; Prabhu, Aditi <Prabhu.Aditi@epa.gov>

**Subject:** Revised 56.1 Statement

All,

Attached is the slightly revised version of our response to the Plaintiffs' 56.1 statement. Hopefully, this give you all enough to refine some of the more difficult responses consistent with yesterday's discussion.

Best regards,

Mark

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**From:** Holmes, Carol [O=EXCHANGELABS/OU=EXCHANGE ADMINISTRATIVE GROUP (FYDIBOHF23SPDLT)/CN=RECIPIENTS/CN=A63F745584114AE9B119547A4DC845FD-HOLMES, CAROL]  
**Sent:** Thur 5/28/2020 2:31:42 PM (UTC)  
**Subject:** RE: NRDC v. Bodine - Complete Draft  
Draft Starfield Declaration (OECA) NRDC v Bodine v5.docx

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**From:** Issacharoff, Lucas (USANYS) [Ex. 6 PP / Ex. 7(C)]  
**Sent:** Thursday, May 21, 2020 6:54 PM  
**To:** Holmes, Carol <[Holmes.Carol@epa.gov](mailto:Holmes.Carol@epa.gov)>; Talty, Mark <[Talty.Mark@epa.gov](mailto:Talty.Mark@epa.gov)>; Doud, Rachael (USANYS) [Ex. 6 PP / Ex. 7(C)]; robert.yalen [Ex. 6 PP / Ex. 7(C)]; Purdy, Angeline (ENRD) [Ex. 6 PP / Ex. 7(C)]  
**Cc:** Simons, Andrew <[Simons.Andrew@epa.gov](mailto:Simons.Andrew@epa.gov)>; Prabhu, Aditi <[Prabhu.Aditi@epa.gov](mailto:Prabhu.Aditi@epa.gov)>  
**Subject:** NRDC v. Bodine - Argument Section

All,

Thank you all for your patience. Please see attached a draft argument section. It clocks in at a hefty 27+ pages, so even with our extension to 40 total pages suggestions on where to trim back would be helpful.

Best,  
Lucas

---

**From:** Holmes, Carol <[Holmes.Carol@epa.gov](mailto:Holmes.Carol@epa.gov)>  
**Sent:** Thursday, May 21, 2020 4:17 PM  
**To:** Talty, Mark <[Talty.Mark@epa.gov](mailto:Talty.Mark@epa.gov)>; Issacharoff, Lucas (USANYS) [Ex. 6 PP / Ex. 7(C)]; Doud, Rachael (USANYS) [Ex. 6 PP / Ex. 7(C)]; Yalen, Robert (USANYS) [Ex. 6 PP / Ex. 7(C)]; Purdy, Angeline (ENRD) [Ex. 6 PP / Ex. 7(C)]  
**Cc:** Simons, Andrew <[Simons.Andrew@epa.gov](mailto:Simons.Andrew@epa.gov)>; Prabhu, Aditi <[Prabhu.Aditi@epa.gov](mailto:Prabhu.Aditi@epa.gov)>  
**Subject:** RE: Revised 56.1 Statement

# Ex. 5 AC/AWP/DP

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---

Carol S. Holmes  
Senior Counsel  
Crosscutting Policy Staff  
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U.S. Environmental Protection Agency  
1200 Pennsylvania Ave, NW  
Washington, DC 20460  
Phone (202) 564-8709

---

**From:** Talty, Mark <[Talty.Mark@epa.gov](mailto:Talty.Mark@epa.gov)>  
**Sent:** Thursday, May 21, 2020 4:10 PM  
**To:** Issacharoff, Lucas (USANYS) [Ex. 6 PP / Ex. 7(C)]; Doud, Rachael (USANYS) [Ex. 6 PP / Ex. 7(C)]; robert.yalen [Ex. 6 PP / Ex. 7(C)]; Purdy, Angeline (ENRD) [Ex. 6 PP / Ex. 7(C)]  
**Cc:** Holmes, Carol <[Holmes.Carol@epa.gov](mailto:Holmes.Carol@epa.gov)>; Simons, Andrew <[Simons.Andrew@epa.gov](mailto:Simons.Andrew@epa.gov)>; Prabhu, Aditi <[Prabhu.Aditi@epa.gov](mailto:Prabhu.Aditi@epa.gov)>  
**Subject:** Revised 56.1 Statement

All,

Attached is the slightly revised version of our response to the Plaintiffs' 56.1 statement. Hopefully, this give you all enough to refine some of the more difficult responses consistent with yesterday's discussion.

ED\_004611G\_00016577-00005

OECA COVID-19 2020  
FOIAs\_Production006

Best regards,

Mark

Mark C. Talty  
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Office of General Counsel  
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(202) 564-1262  
[talty.mark@epa.gov](mailto:talty.mark@epa.gov)



**To:** Yalen, Robert (USANYS) [Ex. 6 PP / Ex. 7(C)]  
**Cc:** Issacharoff, Lucas (USANYS) [Ex. 6 PP / Ex. 7(C)] Doud, Rachael (USANYS) [Ex. 6 PP / Ex. 7(C)] Purdy, Angeline (ENRD) [Ex. 6 PP / Ex. 7(C)] Talty, Mark [Talty.Mark@epa.gov]; Simons, Andrew [Simons.Andrew@epa.gov]; Prabhu, Aditi [Prabhu.Aditi@epa.gov]  
**From:** Holmes, Carol [O=EXCHANGELABS/OU=EXCHANGE ADMINISTRATIVE GROUP (FYDIBOHF23SPDLT)/CN=RECIPIENTS/CN=A63F745584114AE9B119547A4DC845FD-HOLMES, CAROL]  
**Sent:** Thur 5/28/2020 8:31:25 PM (UTC)  
**Subject:** RE: OECA Declaration -- [Ex. 5 AC/AWP/DP]  
Draft Starfield Declaration (OECA) NRDC v Bodine v5.docx  
Draft Starfield Declaration (OECA) NRDC v Bodine v5.1.docx

Hi Rob – Sorry, I work faster than that! I already undid prior edits and added new ones per email below – which is v5 attached. I looked at OneDrive, and alas, the short-lived version with your suggested edits wasn't saved. But I tried to recreate it in v5.1.

# Ex. 5 AC/AWP/DP

Thanks!

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---

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Washington, DC 20460  
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**From:** Yalen, Robert (USANYS) [Ex. 6 PP / Ex. 7(C)]  
**Sent:** Thursday, May 28, 2020 4:06 PM  
**To:** Holmes, Carol <Holmes.Carol@epa.gov>  
**Subject:** RE: OECA Declaration -- [Ex. 5 AC/AWP/DP]

**Ex. 5 AC/AWP/DP**

---

**From:** Holmes, Carol <Holmes.Carol@epa.gov>  
**Sent:** Thursday, May 28, 2020 3:55 PM  
**To:** Yalen, Robert (USANYS) [Ex. 6 PP / Ex. 7(C)]; Doud, Rachael (USANYS) [Ex. 6 PP / Ex. 7(C)] Talty, Mark <Talty.Mark@epa.gov>; Issacharoff, Lucas (USANYS) [Ex. 6 PP / Ex. 7(C)]  
**Cc:** Simons, Andrew <Simons.Andrew@epa.gov>; Prabhu, Aditi <Prabhu.Aditi@epa.gov>; Purdy, Angeline (ENRD) [Ex. 6 PP / Ex. 7(C)]  
**Subject:** RE: OECA Declaration -- [Ex. 5 AC/AWP/DP]

Killing me –just made edits in response to your original email while on a call. :-)

Thanks, I'll undo those edits and make the new ones below.

**Ex. 5 AC/AWP/DP**

Ex. 5 AC/AWP/DP

Ex. 5 AC/AWP/DP

Thanks!

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Washington, DC 20460  
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**From:** Yalen, Robert (USANYS) Ex. 6 PP / Ex. 7(C)

**Sent:** Thursday, May 28, 2020 3:44 PM

**To:** Holmes, Carol <Holmes.Carol@epa.gov>; Doud, Rachael (USANYS) Ex. 6 PP / Ex. 7(C); Talty, Mark <Talty.Mark@epa.gov>; Issacharoff, Lucas (USANYS) Ex. 6 PP / Ex. 7(C)

**Cc:** Simons, Andrew <Simons.Andrew@epa.gov>; Prabhu, Aditi <Prabhu.Aditi@epa.gov>; Purdy, Angeline (ENRD) Ex. 6 PP / Ex. 7(C)

**Subject:** OECA Declaration -- Ex. 5 AC/AWP/DP

So Ex. 5 AC/AWP/DP

**Ex. 5 AC/AWP/DP**

**From:** Holmes, Carol <Holmes.Carol@epa.gov>

**Sent:** Thursday, May 28, 2020 1:50 PM

**To:** Yalen, Robert (USANYS) Ex. 6 PP / Ex. 7(C); Doud, Rachael (USANYS) Ex. 6 PP / Ex. 7(C); Talty, Mark <Talty.Mark@epa.gov>; Issacharoff, Lucas (USANYS) Ex. 6 PP / Ex. 7(C)

**Cc:** Simons, Andrew <Simons.Andrew@epa.gov>; Prabhu, Aditi <Prabhu.Aditi@epa.gov>; Purdy, Angeline (ENRD) Ex. 6 PP / Ex. 7(C)

**Subject:** RE: NRDC v. Bodine - Complete Draft

Hi Rob – please see my responses below. Are separate comments coming on the declaration? We were hoping it was done except all but the signing... This means we probably can't get it signed today b/c folks here will need to review the revised version and be comfortable with it.

# Ex. 5 AC/AWP/DP

Thanks!

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Washington, DC 20460  
Phone (202) 564-8709

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**From:** Yalen, Robert (USANYS) <[REDACTED]> **Ex. 6 PP / Ex. 7(C)**

**Sent:** Thursday, May 28, 2020 1:14 PM

**To:** Holmes, Carol <Holmes.Carol@epa.gov>; Doud, Rachael (USANYS) <[REDACTED]> **Ex. 6 PP / Ex. 7(C)** Talty, Mark <Talty.Mark@epa.gov>; Issacharoff, Lucas (USANYS) <[REDACTED]> **Ex. 6 PP / Ex. 7(C)**

**Cc:** Simons, Andrew <Simons.Andrew@epa.gov>; Prabhu, Aditi <Prabhu.Aditi@epa.gov>; Purdy, Angeline (ENRD) <[REDACTED]> **Ex. 6 PP / Ex. 7(C)**

**Subject:** RE: NRDC v. Bodine - Complete Draft

# Ex. 5 AC/AWP/DP

# Ex. 5 AC/AWP/DP

**From:** Holmes, Carol <Holmes.Carol@epa.gov>

**Sent:** Thursday, May 28, 2020 10:32 AM

**To:** Doud, Rachael (USANYS) [Ex. 6 PP / Ex. 7(C)]; Talty, Mark <Talty.Mark@epa.gov>; Issacharoff, Lucas (USANYS)

[Ex. 6 PP / Ex. 7(C)]; Yalen, Robert (USANYS) [Ex. 6 PP / Ex. 7(C)]

**Cc:** Simons, Andrew <Simons.Andrew@epa.gov>; Prabhu, Aditi <Prabhu.Aditi@epa.gov>; Purdy, Angeline (ENRD)

[Ex. 6 PP / Ex. 7(C)]

**Subject:** RE: NRDC v. Bodine - Complete Draft

Thanks Rachel – attached is what I hope is the final draft of the OECA declaration. In addition to checking formatting, etc., please see the comment balloon conversation between me and Larry [Ex. 5 AC/AWP/DP]

Ex. 5 AC/AWP/DP Thanks!

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---

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**From:** Doud, Rachael (USANYS) <Ex. 6 PP / Ex. 7(C)>  
**Sent:** Thursday, May 28, 2020 10:20 AM  
**To:** Holmes, Carol <Holmes.Carol@epa.gov>; Talty, Mark <Talty.Mark@epa.gov>; Issacharoff, Lucas (USANYS) <Ex. 6 PP / Ex. 7(C)>; robert.yalen <Ex. 6 PP / Ex. 7(C)>  
**Cc:** Simons, Andrew <Simons.Andrew@epa.gov>; Prabhu, Aditi <Prabhu.Aditi@epa.gov>; Purdy, Angeline (ENRD) <Ex. 6 PP / Ex. 7(C)>  
**Subject:** RE: NRDC v. Bodine - Complete Draft

Thanks, Carol. I do think we should use page numbers, and the declarations should have the case caption on them. Can you send us a draft before finalized so we can review any make any adjustments?

It sounds like others at our Office have been using e-signatures for declarations so I think that would be fine if it's not feasible to get an ink signature.

---

**From:** Holmes, Carol <Holmes.Carol@epa.gov>  
**Sent:** Thursday, May 28, 2020 8:19 AM  
**To:** Doud, Rachael (USANYS) <Ex. 6 PP / Ex. 7(C)>; Talty, Mark <Talty.Mark@epa.gov>; Issacharoff, Lucas (USANYS) <Ex. 6 PP / Ex. 7(C)>; Yalen, Robert (USANYS) <Ex. 6 PP / Ex. 7(C)>  
**Cc:** Simons, Andrew <Simons.Andrew@epa.gov>; Prabhu, Aditi <Prabhu.Aditi@epa.gov>; Purdy, Angeline (ENRD) <Ex. 6 PP / Ex. 7(C)>  
**Subject:** RE: NRDC v. Bodine - Complete Draft

Good Morning Everyone!

I'm working on finalizing the OECA declaration, and wanted to check regarding any final formatting requirements (e.g., page number or not, margins, font), and also check to see what you've learned about e-signatures.

Thanks! Carol

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Crosscutting Policy Staff  
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Washington, DC 20460  
Phone (202) 564-8709

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---

**From:** Doud, Rachael (USANYS) **Ex. 6 PP / Ex. 7(C)**  
**Sent:** Wednesday, May 27, 2020 2:56 PM  
**To:** Talty, Mark <Talty.Mark@epa.gov>; Issacharoff, Lucas (USANYS) **Ex. 6 PP / Ex. 7(C)**; robert.yalen **Ex. 6 PP / Ex. 7(C)**  
**Cc:** Simons, Andrew <Simons.Andrew@epa.gov>; Prabhu, Aditi <Prabhu.Aditi@epa.gov>; Holmes, Carol <Holmes.Carol@epa.gov>; Purdy, Angeline (ENRD) **Ex. 6 PP / Ex. 7(C)**  
**Subject:** RE: NRDC v. Bodine - Complete Draft

All,

Here's an updated draft incorporating the edits from earlier. **Ex. 5 AC/AWP/DP**

**Ex. 5 AC/AWP/DP**

Thanks,

Rachael

---

**From:** Talty, Mark <Talty.Mark@epa.gov>  
**Sent:** Wednesday, May 27, 2020 6:34 AM  
**To:** Issacharoff, Lucas (USANYS) **Ex. 6 PP / Ex. 7(C)**; Yalen, Robert (USANYS) **Ex. 6 PP / Ex. 7(C)**  
**Cc:** Simons, Andrew <Simons.Andrew@epa.gov>; Prabhu, Aditi <Prabhu.Aditi@epa.gov>; Doud, Rachael (USANYS) **Ex. 6 PP / Ex. 7(C)**; Holmes, Carol <Holmes.Carol@epa.gov>; Purdy, Angeline (ENRD) **Ex. 6 PP / Ex. 7(C)**  
**Subject:** RE: NRDC v. Bodine - Complete Draft

Lucas & Rachel,

Attached please find EPA's comments on the latest version. **Ex. 5 AC/AWP/DP**

**Ex. 5 AC/AWP/DP**

Thanks for all of your hard work – it is reflected in the brief.

Best regards,

Mark

Mark C. Talty  
Cross-Cutting Issues Law Office  
Office of General Counsel  
U.S. Environmental Protection Agency  
(202) 564-1262  
talty.mark@epa.gov

---

**From:** Issacharoff, Lucas (USANYS) **Ex. 6 PP / Ex. 7(C)**  
**Sent:** Tuesday, May 26, 2020 9:46 AM  
**To:** Holmes, Carol <Holmes.Carol@epa.gov>; Talty, Mark <Talty.Mark@epa.gov>; robert.yalen **Ex. 6 PP / Ex. 7(C)**  
**Cc:** Simons, Andrew <Simons.Andrew@epa.gov>; Prabhu, Aditi <Prabhu.Aditi@epa.gov>; Doud, Rachael (USANYS) **Ex. 6 PP / Ex. 7(C)**; Purdy, Angeline (ENRD) **Ex. 6 PP / Ex. 7(C)**  
**Subject:** NRDC v. Bodine - Complete Draft

All,

# Ex. 5 AC/AWP/DP

Best,  
Lucas

**From:** Holmes, Carol <Holmes.Carol@epa.gov>

**Sent:** Tuesday, May 26, 2020 7:42 AM

**To:** Talty, Mark <Talty.Mark@epa.gov>; Issacharoff, Lucas (USANYS) **Ex. 6 PP / Ex. 7(C)** Yalen, Robert (USANYS)

**Ex. 6 PP / Ex. 7(C)**

**Cc:** Simons, Andrew <Simons.Andrew@epa.gov>; Prabhu, Aditi <Prabhu.Aditi@epa.gov>; Doud, Rachael (USANYS)

**Ex. 6 PP / Ex. 7(C)**; Purdy, Angeline (ENRD) <**Ex. 6 PP / Ex. 7(C)**

**Subject:** RE: NRDC v. Bodine - Argument Section

FYI – article in Inside EPA today about a paper on the Temporary Enforcement Policy by group at the NYU School of Law (attached).

## IPI finds EPA COVID enforcement policy troubling but not sweeping

May 22, 2020

The Institute for Policy Integrity (IPI) at New York University in a new analysis finds EPA's controversial enforcement policy during the COVID-19 pandemic is potentially troubling for public health and the environment but that it "has important limitations in both scope and subject matter and maintains some level of EPA enforcement."

The May 21 report warns of harms especially to environmental justice (EJ) communities and from certain types of pollution releases but it strikes a more balanced tone compared to former EPA officials and others who claim the March 26 policy effectively halted enforcement. For example, Obama EPA chief Gina McCarthy called it "an open license to pollute," while former Obama enforcement chief Cynthia Giles said it was "essentially a nationwide waiver of environmental rules for the indefinite future."

Environmental groups filed suit last month in federal district court after EPA failed to respond to their petition urging the agency to require public disclosure when companies use the policy. Additionally, a group of Democratic-led states filed a lawsuit in the same court this month challenging the policy as unlawful on its face.

EPA and many industry attorneys largely defend the policy as responsible and limited in the midst of an unprecedented pandemic.

IPI argues that one of the "most alarming aspects" of the policy is its relaxation of routine monitoring and reporting, noting that tens of thousands of facilities are subject to self-monitoring and disclosure requirements. If an entity "acts in bad faith" and pollutes more than it is allowed, no one will know the extent of those emissions. Even when an entity acts in good faith, "it will be unknown whether, or to what extent" the plant surpassed its pollution limits.

The group adds the enforcement discretion has concerning implications for EJ communities, which face greater risks from COVID-19 and pollution. One type of reporting that could be eased is fence-line monitoring, which helps track air quality near high-polluting facilities often located in these communities.

There are also potential concerning consequences for hazardous waste generation sites and animal feeding operations, which could discharge toxic materials into waterways. "If a hazardous waste generation facility cannot transfer hazardous waste offsite due to COVID-19, it will not be considered a treatment, storage and disposal facility under the policy. The effects are potentially far-reaching and problematic," the report says. However, IPI's report also includes a section titled, "What the policy does not do." There, the group notes that it is "not a free pass or get out of jail free card" for polluters. EPA maintains discretion to decide whether noncompliance is a result of the coronavirus, or not. It also does not allow entities to indefinitely halt all reporting obligations, and stresses that EPA expects facilities to operate in a safe and protective manner. The policy "does not excuse exceedances of pollution limitations, and EPA will only consider the impacts of COVID-19 in cases where entities have notified EPA . . . to allow the agency to mitigate the risks or threats." However, it warns those limitations "may be meaningless" without reporting.

Finally, the policy is limited in that does not apply to criminal violations, or activities conducted under Superfund law or the Federal Insecticide,

Fungicide and Rodenticide Act.

"In short, the level of harm caused by the policy will depend partially on how EPA chooses to implement it, with more lax oversight likely to increase environmental and public health risks," the report concludes.

Blurb: The Institute for Policy Integrity finds that EPA's controversial enforcement "discretion" policy during the coronavirus is potentially troubling but also has important limits.

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Phone (202) 564-8709

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**From:** Talty, Mark <Talty.Mark@epa.gov>

**Sent:** Friday, May 22, 2020 6:00 PM

**To:** Issacharoff, Lucas (USANYS) <[Ex. 6 PP / Ex. 7(C)]> robert.yalen <[Ex. 6 PP / Ex. 7(C)]>

**Cc:** Simons, Andrew <Simons.Andrew@epa.gov>; Prabhu, Aditi <Prabhu.Aditi@epa.gov>; Holmes, Carol <Holmes.Carol@epa.gov>;

Doud, Rachael (USANYS) <[Ex. 6 PP / Ex. 7(C)]>; Purdy, Angeline (ENRD) <[Ex. 6 PP / Ex. 7(C)]>

**Subject:** RE: NRDC v. Bodine - Argument Section

Lucas & Rachel,

Attached please find EPA's consolidated comments on the draft argument section. The EPA team thought that you all did a really good job with this first draft. We appreciate all of your hard work on this matter.

Please let us know if you have questions as you work through the comments. I'm sure we'll need to touch base on Tuesday to see where we stand.

I hope everyone enjoys as much of the holiday weekend as is possible under the current circumstances.

Best regards,

Mark

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talty.mark@epa.gov

---

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**Sent:** Thursday, May 21, 2020 6:54 PM

**To:** Holmes, Carol <Holmes.Carol@epa.gov>; Talty, Mark <Talty.Mark@epa.gov>; Doud, Rachael (USANYS)

<[Ex. 6 PP / Ex. 7(C)]>; robert.yalen <[Ex. 6 PP / Ex. 7(C)]>; Purdy, Angeline (ENRD) <[Ex. 6 PP / Ex. 7(C)]>

**Cc:** Simons, Andrew <Simons.Andrew@epa.gov>; Prabhu, Aditi <Prabhu.Aditi@epa.gov>

**Subject:** NRDC v. Bodine - Argument Section

All,



Thank you all for your patience. Please see attached a draft argument section. It clocks in at a hefty 27+ pages, so even with our extension to 40 total pages suggestions on where to trim back would be helpful.

Best,  
Lucas

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**Sent:** Thursday, May 21, 2020 4:17 PM

**To:** Talty, Mark <Talty.Mark@epa.gov>; Issacharoff, Lucas (USANYS) [Ex. 6 PP / Ex. 7(C)]; Doud, Rachael (USANYS)

[Ex. 6 PP / Ex. 7(C)] Yalen, Robert (USANYS) [Ex. 6 PP / Ex. 7(C)]; Purdy, Angeline (ENRD) [Ex. 6 PP / Ex. 7(C)]

**Cc:** Simons, Andrew <Simons.Andrew@epa.gov>; Prabhu, Aditi <Prabhu.Aditi@epa.gov>

**Subject:** RE: Revised 56.1 Statement

# Ex. 5 AC/AWP/DP

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robert.yalen [Ex. 6 PP / Ex. 7(C)]; Purdy, Angeline (ENRD) [Ex. 6 PP / Ex. 7(C)]

**Cc:** Holmes, Carol <Holmes.Carol@epa.gov>; Simons, Andrew <Simons.Andrew@epa.gov>; Prabhu, Aditi <Prabhu.Aditi@epa.gov>

**Subject:** Revised 56.1 Statement

All,

Attached is the slightly revised version of our response to the Plaintiffs' 56.1 statement. Hopefully, this give you all enough to refine some of the more difficult responses consistent with yesterday's discussion.

Best regards,

Mark

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